

**IN THE COURT OF APPEAL, FIJI**  
**ON APPEAL FROM THE HIGH COURT**

**CIVIL APPEAL NO. ABU 0062 of 2017**  
**(High Court Civil Action HBA No.11 of 2017)**

**BETWEEN** : **1. AUTOWORLD TRADING (FIJI) LIMITED**  
**2. RAVINDRA LAL**

**Appellants**

**AND** : **ESALA MAU RAIDRUTA**

**Respondent**

**Coram** : **Dr. Almeida Guneratne, P**

**Counsel** : **Mr S Singh for the Appellants**  
**Mr P. C. Suguturaga for the Respondent**

**Date of Hearing** : **19 January, 2023**

**Date of Order** : **27 January, 2023**

**ORDER**

[1] By judgment dated 8<sup>th</sup> March, 2019 the full Court allowed the abovenamed Appellants appeal.

[2] By its judgment dated 26<sup>th</sup> August, 2022 the Supreme Court dismissed the abovenamed Respondent's leave to appeal application against the Court of Appeal judgment.

[3] Consequently, the Appellants filed summons dated 29<sup>th</sup> September, 2022 seeking the following Orders – viz:

*“That the Respondent and/or their Solicitors return the sum of \$31,312.39 to the Appellants together with interests on such rate and on such amount as the Honourable Court deems just and necessary.*

*The costs of this application be paid by the Respondent.”*

[4] The full Court having heard the matter of the said summons on 29<sup>th</sup> September 2022 reserved order to be delivered on notice.

[5] Since the full Court did not assemble for some time, having gone through the Affidavit of the abovenamed 2<sup>nd</sup> Appellant dated 8<sup>th</sup> September, 2022, when the matter was mentioned before me on 13<sup>th</sup> December 2022, I sought the views of Counsel for the parties as to whether as a single Judge I could make an order under Section 20(1)(k) of the Court of Appeal Act.

[6] By written submissions dated 28<sup>th</sup> December, 2022, the Respondent has argued that,

*“16. In the present matter, the Appellant’s Summons filed on 21 September 2022, is made more than 3 years later after the substantive appeal was determined by the full bench of the Court of Appeal in 8 March 2019. No substantive appeal is on foot. The Appellant’s summons filed on 21 September 2022 is not incidental to any pending appeal. A single judge of the Court of Appeal is therefore functus from determining the Appellant’s Summons filed on 21 September 2022.”*

[7] Thereafter, the matter having come up before me for mention on 19<sup>th</sup> January, 2023, although I said that I would make a ruling on notice, with a view to circumvent possible protracted proceedings, I thought it would be in the interest of all parties that the matter be mentioned before the full Court since it is in session in February so that it may revive its order made on 29<sup>th</sup> September, 2022 referred to in paragraph [4] above.

[8] Accordingly, I make Order and direct the Registrar to have this matter mentioned before the full Court comprising Justices Lecamwasam, Jameel and Guneratne on the 8<sup>th</sup> of February, 2023 to enable the full Court to make appropriate orders.

Order:

1) *As stated in paragraph [8] above.*



A handwritten signature in dark ink, appearing to read "Almeida Guneratne".

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**Hon. Justice Almeida Guneratne**  
**PRESIDENT, COURT OF APPEAL**

**Solicitors:**

Shelvin Singh Lawyers for the Appellants

Haniff Tuitoga Lawyers for the Respondent