

IN THE COURT OF APPEAL, FIJI
[On Appeal from the High Court]

CIVIL APPEAL NO. ABU 044 of 2011
[In the High Court at Labasa Case No. HBC 0045 of 2005]

BETWEEN : **PREET SINGH VERMA** (father's name Amar Singh) of Labasa,
Fiji, ex Bank Officer.

1st Appellant

AND : **APOLOSI RAIGU** of Labasa, Fiji, and **PREET SINGH VERMA**
(father's name Amar Singh) of Labasa, Fiji, ex Bank Officer trading
as Top Ride Motors New Zealand, Businessman.

2nd Appellant

AND : **COLONIAL NATIONAL BANK** a limited liability company
trading as bankers in Labasa and other places in Fiji with its
registered office in Fiji.

Respondent

Coram : **Prematilaka, RJA**

Counsel : **No appearance for the Appellants**
Mr. C. Young for Respondent

Date of Ruling : **04 March 2025**

RULING IN CHAMBERS

[1] This file was forwarded to me for an order by the Court of Appeal Registry on 27 February 2025.

[2] Upon a perusal of the file the following sequence of events come to light as brought to my notice by the CA Registry.

- (i) On 31 August 2011, a notice of appeal along with grounds of appeal had been filed by Mishra Prakash & Associates on behalf of the appellants.
- (ii) Following summons for security for cost (SFC) and inquiry before the Chief Registrar, a sum of \$1000 had been fixed as SFC on 21 September 2011, which had been duly paid on 12 October 2011.
- (iii) The final records had been certified on 11 April 2014.
- (iv) Mishra Prakash & Associates had on 08 July 2014 filed summons to withdraw as Barristers and Solicitors for the appellants.
- (v) The 01st appellant in his affidavit in opposition had agreed to the withdrawal of Mishra Prakash & Associates if the latter agreed to refund the professional fee of \$10000.00 already paid to Mishra Prakash & Associates.
- (vi) Mishra Prakash & Associates had filed an affidavit in reply on 10 September 2014.
- (vii) On 20 October, then President of the Court of Appeal Justice Calanchini had by consent (see letter dated 14 October 2014 sent to the CA Registry by the 01st appellant) allowed Mishra Prakash & Associates to cease to act as the Barristers and Solicitors for the appellants with no cost.

[3] The 01st appellant had written to the CA Registry on 30 September 2014 and 14 October 2014 stating *inter alia* that he was liaising with ‘Mr. Jay Udit of Howards’ to represent the appellants in appeal. Since then, neither of the appellants nor ‘Mr. Jay Udit of Howards’ had effected any communication with regard to the appeal progressing to a hearing before the Full Court.

[4] Both the appellants/Mishra Prakash & Associates and Young & Associates/its city agent R Patel Lawyers may have uplifted the certified appeal records from the CA Registry. However, the CA Registry does not appear to have acted in terms of Rule 18(9) of the Court of Appeal Rules and with paragraph 5 of the Practice Direction No. 1 of 2018 in placing the appeal on a call-over list to be called on a call-over date.


[5] Therefore, it is necessary for this court to ascertain whether the appellants intend to prosecute the appeal even at this late stage before making any order of dismissal of the

appeal for want of prosecution. If the appellants intends to proceed with the appeal, it must be listed on a call-over list to be called on a call-over date to fix a date and time for the hearing of the appeal before the Full Court and to make ancillary orders for filing of written submissions.

Orders of the Court:

1. Notice 'Mr. Jay Udit of Howards' & both appellants and Young & Associates & its city agent R Patel Lawyers to appear in court on 24 March 2025.
2. Inform 'Mr. Jay Udit of Howards' and/or both appellants that if they fail to appear on 24 March 2025, the appeal will be dismissed for want of prosecution in terms of section 20(1)(g) of the Court of Appeal Act.




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Hon. Mr Justice C. Prematilaka
RESIDENT JUSTICE OF APPEAL

Solicitors:

No appearance for the Appellants
Young and Associates Lawyers for the Respondent