

IN THE HIGH COURT OF FIJI
AT LAUTOKA
CIVIL JURISDICTION
CIVIL ACTION NO. HBC 225 OF 1994L

NO. 238/2006

BETWEEN:

DAVENDRA RAJU f/n Rajanna

Plaintiff

A N D:

SHAKANTALA f/n David Peter

1st Defendant

A N D:

BAL KRISHNA f/n Katanna Raju

2nd Defendant

A N D:

ATTORNEY GENERAL OF FIJI

3rd Defendant

Mr. S. Verma for the plaintiff

Mr. D.S. Naidu for the 1st defendant and 2nd defendant

Mr. A. Tuilevuka for the 3rd defendant

Date of Hearing: 9 November 2006

Date of Ruling: 9 November 2006

EXTEMPORE RULING ON LEAVE TO WITHDRAW

- [1] This matter has a tortured history and the trial date has been vacated on prior occasions. The basis of that vacation has been the inability of counsel for the 1st and 2nd defendant to locate his clients and obtain instructions.
- [2] An application has now been made by counsel for the 1st and 2nd defendant pursuant to Order 67 of the High Court Rules. That application is made by way of summons dated the 8th November 2006 and is supported by an affidavit of Rinky Devi sworn on that same day.

- [3] It is apparent from the affidavit and from the submissions made by Mr. Verma that there has been no contact with the defendants for at least 2 years and that attempts have been made to make contact with all known associates of the defendants. These attempts have been unsuccessful and in the circumstances this has not been possible for service of the application to be effected upon the 1st and 2nd defendant.
- [4] The summons seeks leave to dispense with service in the circumstances set forth in the affidavit.
- [5] Order 67 Rule 6 of the High Court Rules sets forth the procedure to be adopted by counsel who has ceased to act for a party. Order 67 Rule 6(2) provides that the application must be served unless the Court otherwise directs. It seems appropriate in the circumstances as outlined for service to be dispensed with when there has been no contact by the defendants with their counsel and when their counsel has no knowledge of their whereabouts but understands they have migrated to New Zealand.
- [6] In the circumstances I grant leave to dispense with service of the summons and supporting affidavit and I grant leave for counsel for the 1st and 2nd defendants to withdraw.




[John Connors]
JUDGE

At Lautoka
9 November 2006