

IN THE HIGH COURT OF FIJI
AT SUVA

CIVIL JURISDICTION

Civil Action No. HBC 192 of 2004

Between: WALUSIO KALI

Plaintiff

And : ROYAL FIJI MILITARY FORCES

Defendant

Before : Master Udit

Counsel : Mr N. Lajendra
: No Appearance

for the Plaintiff
for the Defendant

Date of Hearing: 15 February, 2007

Date of Decision: 15 February, 2007

EX-TEMPO RULING

I have noted from the records, that the defendant was informed of today's date by a Notice of Adjourned Hearing filed by the plaintiff. Not only that Mr. A. Bale was present in court, when this date was assigned. Despite this there is no appearance of the defence or a counsel. This case has been perpetually adjourned multiple occasions for settlement. However, the much promised and awaited settlement or near settlement did not eventuate. In the meantime the plaintiff is being paid his full salary. He is nearing retirement.

Both parties are equally to be blamed on the delay. The delay is not attributed to the court or judicial system. I had on numerous occasions pressed upon counsel to take a hearing date for assessment of damages. This was met with a combined application by both parties for a last opportunity to settle the case.

Regrettably, today I am told that the settlement has collapsed, as the defendant is not responding. His concern is butt rested by and reflected in the non-appearance of the counsel, for no apparent reason.

Mr Lajendra seeks costs of \$150.00 for today's wasted appearance. I will grant the costs but only \$100.00.

If this settlement collapses, I will review the file and may consider ordering wasted hearing fees to be paid to the court over the multiple adjournments for settlement, the purposes of adjournment for settlement must be taken seriously, so that other deserving litigant can beneficially take advantage of the limited resources and time of the Court. Where settlement is not feasible, counsel should progress the case to trial expeditiously, so that parties can achieve a result in the shortest possible time.

Accordingly, the orders are:-

1. Defendant to pay costs of \$100.00 today by 14/3/2007.
2. Adjourned to 16/3/2006 at 8.45 a.m. for directions.



J. J. Udit

Master