

IN THE HIGH COURT OF THE REPUBLIC OF FIJI
WESTERN DIVISION
AT LAUTOKA

CIVIL JURISDICTION

WINDING UP CASE NO. HBE 03 OF 2014

IN THE MATTER of **JAS LOGGING LTD** a
limited liability company having its registered
office at Queens Road, Nacovi, Nadi

AND

IN THE MATTER OF THE COMPANIES ACT

Counsel

Mr A Sudhakar for the Plaintiff

No appearance for the respondent company

Date of Hearing : 30/06/14

Date of Judgment : 30/06/14

J U D G M E N T

1. This is a petition filed on 17 March 2014 by the petitioner to have the Respondent Company wound up on the ground that it is unable to pay its debt. The affidavit of Dilraz Ali sworn on 21 March 2014 and filed on 24 March verifying the contents of the petition.
2. The petition was duly served on the Respondent Company at its registered office at Queens Road, Navoci, Nadi. The petition was also duly advertised in the Fiji Sun newspaper on 16 April 2014 and in the Fiji Republic Gazette on 17 April 2014. Affidavit of service has been filed in proof thereof.

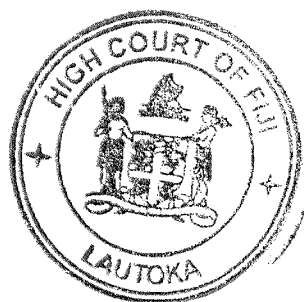
3. The petitioner seeks to wind up the respondent company on the ground that it is unable to pay its debts. The Company is indebted to the Petitioner in the sum of \$45,589.34 being a debt owed pursuant to Judgment dated 15th August, 2013 obtained by the Petitioner against the company in Lautoka High Court Civil Action No. 43 of 2013 plus costs of \$575.00 for the Statutory Demand (Pursuant to section 221 of the Companies Act) dated 28th November, 2013 making a total of \$46,164.34. The Petitioner gave several verbal and a written notice but the Company has either failed or refused to pay the sums or any part thereof.
4. A demand notice was also served on 3 December 2013 at the registered office of the company requiring payment. The Company did not settle the debt demanded within 3 weeks of the notice pursuant to s.221 (a) of the Companies Act. That section provides:

221. A company shall be deemed to be unable to pay its debts-

(a) if a creditor, by assignment or otherwise, to whom the company is indebted in a sum exceeding \$100 then due has served on the company, by leaving it at the registered office of the company, a demand under his hand requiring the company to pay the sum so due and the company has, for 3 weeks thereafter; neglected to pay the sum or to secure or compound for it to the reasonable satisfaction of the creditor; (Emphasis provided)


5. Pursuant to section 221 (a), within three weeks after receiving the demand notice, if the company neglect to pay the sum so due or secure or compound for it to the reasonable satisfaction of the creditor (in this instance the petitioner) the company will be deemed to be unable to pay its debts. Despite the demand notice, the company has either failed or refused to pay the debts or any part thereof. Therefore the company could be deemed to be unable to pay its debts.
6. Pursuant to section 220 (e) of the Companies Act, a company may be wound up on the ground it is unable to pay its debt.

7. Furthermore, a company may also be wound up, if execution or other process issued on a judgment, decree or order of any court in favour of a creditor of the company is returned unsatisfied in whole or in part. This is pursuant to section 220 (e) of the companies Act.
8. The sum demanded by the petition is a judgment sum. The judgment entered against the company in favour of the petitioner remained unsatisfied, forming another ground for winding up.
9. The respondent company did not file any objection opposing the winding up petition.
10. For the foregoing reasons, I would make order that **JAS LOGGING LTD** be wound up and Official Receiver appointed liquidator of the company and costs of these proceedings to be taxed and paid out the company's assets.
11. I accordingly make the following orders:
 1. **JAS LOGGING LTD** is wound up;
 2. Official Receiver is appointed liquidator of the Company;
 3. The cost shall be taxed and paid out of the Company's assets;
 4. Order s accordingly.



At Lautoka

30/06/14


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M H Mohamed Ajmeer
Master of the High Court

Solicitors:

For the petitioner: Janend Sharma Lawyers, Barristers & Solicitors

For the respondent: No appearance