

Background

2. The Plaintiff instituted this action by way of a writ of summons against the first and second defendants. However, on 29th of November 2013, the Plaintiff withdrew their claim against the 2nd Defendant. Justice Mutunayagam ordered the cost against the Plaintiff. His lordship further directed that the cost to be taxed if not agreed upon by the parties. Having failed to reach to an agreement for cost, the Defendant filed this application for taxation of cost.
3. Having satisfied that the Defendant filed this application within the stipulated time under order 62 r 29 (1), the court issued notice to the Plaintiff and set this application for hearing on the 28th of October 2014. The learned counsel for the Defendant and the Plaintiff made their respective oral submissions during the cause of the hearing. The counsel of the Defendant tendered his written submissions at the conclusion of the hearing. Having considered the bill of cost and respective submissions of the parties, I now proceed with my ruling as follows.
4. The learned counsel for the Defendant submitted in his submissions that the Defendant is entitled for indemnity cost as the Plaintiff was informed at the beginning of the proceedings that they have sued a wrong party. The learned counsel for the Plaintiff objected the bill of cost filed by the Defendant on the ground of excessiveness.
5. Order 62 rule 3 states that;

“ Where the court makes an order for costs without indicating the basis of taxation or an order that costs be taxed on basis other than the standard basis or the indemnity basis, the costs shall be taxed on the standard basis”.

6. It appears that the order of Justice Mutunayagam made on 29th of November 2013 has not specified the basis of the taxation of cost. Hence the basis of taxation of this application is the standard basis.

7. Order 62 r 12 (1) has provided the basis for taxation, where it states that;

“ On a taxation of costs on the standard basis there shall be allowed a reasonable amount in respect of all costs reasonably incurred and any doubts which the taxing officer may have as to whether the costs were reasonably incurred or were reasonable in amount shall be resolved in favour of the paying party; and in these rules the term “ the standard basis” in relation to the taxation of costs shall be construed accordingly”.

8. Having considered Order 62 r 13 and the submissions of the parties, I award following cost in respect of the bill of cost filed by the 2nd Defendant.

NO	SCALE	PARTICULARS	COSTS	DISBURSEMENTS	ALLOWED BY TAXING OFFICER
INSTRUCTIONS					
1	4	Receiving instructions from the 2 nd Defendant by letter dated 29 th October 2013 together with the Amended Writ of Summons with Statement of Claim; Amended Acknowledgement of Service; Amended Inter-Parte			\$ 120 (cost + Disbursements) for Items 1 and 2

		Summons for Injunction; and Amended Plaintiff's Affidavit in Support of Injunction served on behalf of the Plaintiff.	100.00	20.00	
PLEADINGS					
2	4	Preparing, filing and service of Acknowledgement of Service	100.00	11.25	
3	24(a)	Preparing, filing and service of Statement of Defence of 2 nd Defendant	150.00	57.50	\$ 207.50 (Costs + Disbursements)
4	24(a)	Preparing, filing and service of Answering Affidavit of Prith Pal Singh to Affidavit of Prince Gopal Lakshman in Opposition to injunctive Orders sought by the Plaintiff	150.00	57.50	\$ 207.50 (Costs + Disbursements)
5	26	Preparing Written Submissions of the 2 nd Defendant in Opposition to the injunctive Orders sought by the Plaintiff	400.00	30.00	\$ 375 (costs + Disbursements) for items 5,6,7.
6	40	Preparing, filing and service of Order		11.50	
7	31	Receiving instructions for taxation of costs. Preparing filing and service of Bill of Costs for Taxation	100.00	63.50	
LETTERS					
8	40	Letter from R. Patel & Co., to Parshotam Lawyers			\$ 150 for items 8 to 12.

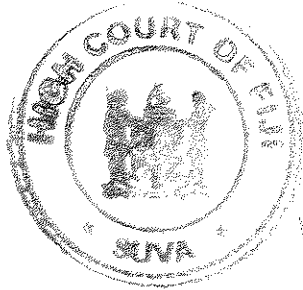
EMAILS					
9	40	Emails dated 28 th to 30 th October 2013 from R. Patel Lawyers to Mangal Singh; and from Mangal Singh to R. Patel Lawyers			
10	40	Emails dated 06 th November 2013 from R. Patel Lawyers to Mangal Singh; and from Mangal Singh to R. Patel Lawyers			
11	40	Emails dated 07 th ; 08 th ; 13 th ; and 15 th November 2013 from R. Patel Lawyers to Mangal Singh			
12	40	Received Notice of Adjourned Hearing from Suva High Court Civil Registry on 14 th November 2013			
BILL OF COSTS					
13	40	Bill of Costs dated 20 th February 2014			\$ 75,
COURT APPEARANCES					
14	24(a)	Appearance in High Court before the Honourable Mr. Justice Mutunayagam on 30 th October 2008	150.00		\$ 300 for items 14 to 17.
15	24(b)	Appearance in High Court before the Honourable Mr. Justice Mutunayagam on 13 th November 2013	50.00		
16	24(b)	Appearance in High Court			


		before the Honourable Mr. Justice Mutunayagam on 15 th November 2013	50.00		
17	24(b)	Appearance in High Court before the Honourable Mr. Justice Mutunayagam on 29 th November 2013	50.00		
SEARCHES					
18	40	Search of B. D. Lakshman & Sons (Properties) Ltd at the Registrar of Companies Office		4.15	\$ 300 (Costs + Disbursements) for items 18 to 26.
19	40	Search of Winstones Aggregates (Fiji) at the Registrar of Companies Office		2.40	
20	40	Search of Pastoral Company (Fiji) Limited at the Registrar of Companies Office		4.15	
21	40	Search of the land comprised in Certificate of Title Number 25/2494 at the Registrar of Titles Office		3.00	
22	40	Search of the land comprised in Certificate of Title Number 25/2495 at the Registrar of Titles Office		1.80	
23	40	Search of the land comprised in Certificate of Title Number 6021 at the Registrar of Titles Office		1.20	
24	40	Telephone calls		\$20.00	
25	40	Photocopies		\$446.00	
26	40	Taxi fare to Vatuwaqa to serve Muskit Law the Solicitors for		\$12.00	

		the 1 st Defendant			
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9. In my conclusion, I award sum of \$ 1,735 as taxed cost to be paid by the Plaintiff to the Defendant within 21 days of this Ruling.

Dated at Suva this 15th day of April, 2015.




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R.D.R. Thushara Rajasinghe
Master of High Court, Suva