

IN THE HIGH COURT OF FIJI AT LABASA

CIVIL JURISDICTION

CIVIL ACTION No. 1 of 2015

MAGISTRATE'S COURT CIVIL ACTION No. 142 of 1999

BETWEEN

FIJI SUGAR CORPORATION

PLAINTIFF

AND

SOHAN SINGH of Nasea, Labasa.

DEFENDANT

Counsel : Mr. Ratule K. for plaintiff
Defendant is absent and unrepresented

Date of Hearing : 06th October, 2016

Date of Order : 06th October, 2016

ORDER

The plaintiff filed this summons 19th August, 2016 seeking an order for the release of judgment sum amounting to \$12079.68 deposited in Civil Appeal No. 7 of 2005 together with interest and be credited to its solicitors account in terms of Order 22 Rule 8(1) and rule 9.

When this matter came up before the learned Master the learned counsel who represented the defendant has informed court that this application does not affect his client and the matter was allocated to me.

When the matter was taken up before me the defendant was absent and unrepresented and the learned counsel for the plaintiff made submissions in support of his application.

The judgment was entered in the Labasa Magistrate's Court Civil Action No. 142 of 1999 for \$10,346.00 together with \$400 as costs in favour of the defendant upon formal proof and on 17th October, 2003 the plaintiff filed a motion to have the said judgment set aside and for the reinstatement of its claim which was refused by the learned Magistrate.

In appeal the High Court allowed the appeal and ordered inter alia that the judgment sum be paid in to court with interest as prescribed in the judgment. As per said judgment \$12,079.68 was deposited in court on 28th April, 2006.

Since then there had been various application and orders have been made and the substantive action was heard and the final judgment was pronounced on 3rd June, 2016 by the High Court.

In its judgment the High Court made the orders;

- (i) Plaintiff's claim is dismissed and struck out;
- (ii) Defendant's counter claim is dismissed and struck out.

- (iii) Each party to bear their own costs of this action and Labasa Magistrate's Court Action No. 142 of 1999.

It appears therefore, the matter between the parties have been finally disposed of by the court. It is the position of the plaintiff that the defendant has not preferred an appeal against the judgment of the High Court dated 3rd June, 2016. The appealable period has now lapsed and the plaintiff is therefore, entitled to withdraw the money deposited in court.

Accordingly, I make the following order.

ORDER

1. The judgment sum of \$12,079.68 be deposited in Civil Appeal No. 7 of 2005 together with interest if any, accrued on the said sum from 30th April, 2006, to the plaintiff and the same be credited to the trust account of its solicitors, Messers Gibson and Company.


Lyone Seneviratne

JUDGE



06th October, 2016.