

IN THE HIGH COURT OF FIJI
AT LAUTOKA
APPELLATE JURISDICTION

Criminal Appeal No. 81 of 2018.
(from Nadi Traffic Case 196 of 2018)

ANITA KUMAR BULLDOZING WORKS

Appellant

V

LAND TRANSPORT AUTHORITY

Respondent

Mr. A. Dutt for the Appellant

Miss E. Dauvere for the LTA.

Date of Hearing : 23 November 2018

Date of Ruling : 11 December 2018

RULING

- 1.] On the 2nd day of March, 2018 the Appellant company ("AKBW") was issued with a LTA Traffic Infringement Notice ("TIN") for permitting another person to drive a motor vehicle with no conforming mass plus load.
- 2.] Given the option to pay a fixed penalty or dispute the matter in Court, AKBW chose to contest it in Court and to that end, instructed Solicitors to notify the Court that the TIN was being disputed.

- 3.] The Solicitors wrote to the Nadi Court on 1st May advising the Court of the challenge. The Court advised that the matter would be first called on 17 May 2018 under Case No. 196 of 2018. Both parties attended that first call and proceedings were adjourned for mention on 20th July 2018.
- 4.] There is a dispute between the parties as to what happened on the 20th July 2018.
- 5.] The appellant deposes by way of affidavit that it was understood that agents had been instructed by the Appellant's Solicitors to appear that day.
- 6.] The respondent deposes by affidavit that the Magistrate didn't sit and neither the Appellant nor counsel appeared.
- 7.] A third version is reflected in the Court record. It records that a Mr. Inoke appeared for LTA and that there was no appearance for the Appellant but also records that a Ms. Salote was present. (The record doesn't state what part "Ms. Salote" was taking in proceedings.) It is also recorded that a clerk had directed that the matter be called on the 19th September.
- 8.] On the 19th September the LTA was represented but not the Appellant. It was then that the matter was struck out.

9.] Analysis

These proceedings are a clear example of what happens when Solicitors do not keep a close watch on matters that they have in hand. If AKBW had instructed agents as the Director of the company believes, then her Solicitors should have followed up to

find out from them or the Court what transpired at the hearing. They had nearly 2 months to do that. If their agents were reliable they should have reported back to the principal and absent such report enquiry should have been made.

10.] Being remiss in this matter it does not behove the Solicitors for the Appellant to come before this Court , and out of time in the process, to appeal the striking out of the matter.

11.] They ask for directions on how to get the matter reinstated. The only directions that can be given are to keep a proper watch on your current files and if you brief a matter out, follow it up if you don't hear back from your agents.

12.] Enlargement of time to appeal is refused and the appeal is dismissed.



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P.K. Madigan

Judge.

High Court Lautoka