

**IN THE HIGH COURT OF FIJI**  
**WESTERN DIVISION AT LAUTOKA**  
**APPELLANT JURISDICTION**

LTA CIVIL APPEAL NO. HBM 31 OF 2017

**IN THE MATTER OF APPEAL FROM**  
**THE LTA TRIBUNAL** being Appeal No. 35  
of 2015.

**BETWEEN** : **MOHAMMED FARID** of Kulukulu, Sigatoka, Taxi Driver.  
**APPELLANT**

**AND** : **LAND TRANSPORT AUTHORITY** a statutory body established  
under the Land Transport Authority having its registered office at  
Valelevu, Nasinu.

**FIRST RESPONDENT**

**AND** : **MOHAMMED JALIL**  
**INTERESTED PARTY**

**Appearances** : Mr A. Chand for the appellant  
: Mr G. Stephens for the respondent

**Date of Hearing** : 25 January 2019

**Date of Ruling** : 25 January 2019

## **R U L I N G**

[On Leave to Appeal Out of Time]

[01] This is an application for leave to appeal out of time a decision of the Land Transport Appeals Tribunal (*'The Tribunal'*) delivered on 20 January 2017, where the Tribunal dismissed an appeal preferred by the applicant against the decision of the Land Transport Authority (*'LTA'*) which rejected an application for the transfer of permit made by the applicant in his favour.

- [02] The Land Transport Act 1998 (*the Act*), section 48, states that a decision of the Tribunal shall be subject to an appeal, only on points of law, to the High Court. The Act however does not provide rules explaining how an appeal made thereunder must be made. It is then the High Court Rules 1988, as amended (*"HCR"*), O 55, come into play. The HCR, O 55, applies to any appeal under any enactment for which no rules governing appeals have been made. As the Act does not provide rules regarding appeals from the decisions of the Tribunal, the HCR, O 55, applies to the applicant's appeal.
- [03] The HCR, O 55, R 4 (2) provides that the notice must be served, and the appeal entered within 28 days after the date of the judgment, order, determination or other decision against which the appeal is brought.
- [04] The applicant had 28 days to appeal the Tribunal's decision of 20 January 2017, on points of law to the High Court (see HCR, O 55 R 4(2)).
- [05] The applicant has filed his application for leave to appeal out of time on 30 August 2017, which is more than 7 months late.
- [06] It is to be noted that there is no apparent explanation for the delay in the supporting affidavit filed by the applicant.
- [07] The delay is far too long, more than 7 months which remains unexplained. I am declined to grant leave to the applicant to file a supplementary affidavit at this late stage of proceedings. As the argument went on, Mr Chand of counsel for the

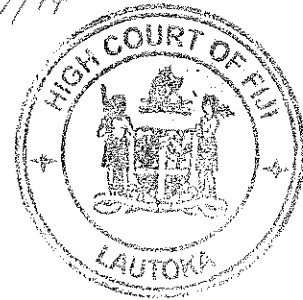
applicant orally sought leave to file a supplementary affidavit, which was opposed by the respondent.

[08] The delay of 7 months remains unexplained. I would, therefore, refuse to grant leave to appeal out of time. There shall be no order as to costs.

**Final order**

1. Leave to appeal out of time refused.
2. No order as to costs.

*Hellpasigues*  
..... 25/1/19  
**M.H. Mohamed Ajmeer**  
**JUDGE**



**At Lautoka**  
**25 January 2019**

Solicitors:

For the applicant: M/s. Amrit Chand Lawyers, Barristers & Solicitors

For the respondent: Legal Department, Land Transport Authority