

IN THE HIGH COURT OF FIJI AT SUVA
CIVIL JURISDICTION

Civil Action No: HBC 202 of 2022

IN THE MATTER of an Application for Committal
under Order 52 of the High Court Rules.

BETWEEN: **THE ATTORNEY – GENERAL OF FIJI** of Level 4-8, Suvavou House, Victoria
Parade, Suva.

APPLICANT

A N D: **RICHARD KRISHNAN NAIDU**, Legal Practitioner, Duncan Road, Domain in
Suva C/- Munro Leys, Level Pacific House, Butt Street, Suva.

RESPONDENT

Appearance : Mr. Devanesh Sharma with Ms. Gul Faitma for the applicant
Hearing : Monday, 27th June, 2022 at 12: 10 pm
Decision : Monday, 27th June, 2022 at 12.30pm

DECISION

- [1]. On 22.6.2022, the applicant [the Attorney-General] sought leave **ex parte** to apply for an order of committal against the respondent. The application was made under Order 52, Rule 2 of the High Court Rules, 1988.
- [2]. Under Order 52, rule 2(2) the ex parte application for leave must be accompanied by a statement setting out; (1) the name and description of the applicant; (2) the name, description and address of the person sought to be committed; and (3) the grounds on which his committal is sought.

- [3]. The application must also be supported by an affidavit verifying the facts relied on in the statement.
- [4]. The ex parte notice of motion filed on 22.6.2022 on behalf of the applicant apart from identifying the applicant and the respondent, set out the grounds for committal in the following terms:

Grounds for Committal

For his Facebook Post of 2nd February 2022 at 12.53pm

The Facebook post read "Maybe our judges need to be shielded from all this vaccination campaigning. I'm pretty sure all the Applicant wanted was an injunction [Thinking Face Emoji]".

The Facebook post also included an excerpt of the Judgment delivered in Naidu v Gulf Investment (Fiji) Pty Ltd [2022] FJHC 23 which was delivered on 21st January 2022.

The Plaintiff selectively cropped a portion of the Judgment which read:


- "3. After hearing counsel for the first and fourth Defendant [...]*
- 4. This application for injection was heard on 22.1[...]*
- 5. By the time injection application was heard a wi [...] against first Defendant."*

The Facebook Post sought to:

- i. ridicule the presiding Judicial Officer and the Fijian Judiciary as a whole;*
 - ii. bring into disrepute and lower the reputation of the presiding Judicial Officer and the administration of justice in Fiji; and*
 - iii. Invite and encourage viewers of the post to cast aspersions against expatriate Judicial Officers.*
- [5]. The necessary affidavit in support verifying the facts relied on was sworn on 10.6.2022 by the applicant.

- [6]. Taking into consideration of the background facts and the procedural law set out in Order 52, rule 2, I grant leave ex parte to apply for an order of committal against the respondent.




.....27-06-2022
Jude Nanayakkara
[Judge]

High Court - Suva
Monday, 27th June, 2022