

**IN THE HIGH COURT OF FIJI AT SUVA**  
**CIVIL JURISDICTION**

**Civil Action No. 287 of 2018**

**BETWEEN:**                   **REDDY CONSTRUCTION COMPANY LIMITED** f/n Arjun Prasad, Process Worker of Auckland, New Zealand as Administratrix of **THE ESTATE OF NARAYAN REDDY** f/n Ranga Sami Reddy, late of Suva, Fiji, Deceased.

**APPLICANT/PLAINTIFF**

**A N D:**                   **YANKTESH PERMAL REDDY** f/n Sankar Sanyasi, Waterfront Hotel, Marine Drive Lautoka, Company Director.

**1<sup>st</sup> RESPONDENT/ 1<sup>st</sup> DEFENDANT**

**A N D:**                   **YANKTESH PERMAL REDDY** f/n Sankar Sanyasi, of Waterfront Hotel, Marine Drive Lautoka, Company Director, **ROHIT REDDY** f/n Yanktesh Permal Reddy, Company Director, Level 2 Spartik House 6-8 Edward Wayte Place, Auckland New Zealand, **KALPANA REDDY** f/n Yanktesh Permal Reddy, Company Director, of Level 2 Spartik House 6-8 Edward Wayte Place, Auckland New Zealand, **GIYANANAND NAIDU** (father's name not known by the Plaintiff) of 15 Kadavu Street, Lautoka, Finance Manager and Director.

**2<sup>nd</sup> RESPONDENT/ 2<sup>nd</sup> DEFENDANT**

**A N D:**                   **REDDY CONSTRUCTION COMPANY LIMITED** a company duly incorporated in Fiji and having its registered office at 35 Ravouvou Street, Lautoka.

**3<sup>rd</sup> RESPONDENT/ 3<sup>rd</sup> DEFENDANT**

**A N D:**                   **REDDY ENTERPRISES LIMITED** a company duly incorporated in Fiji and having its registered office at 35 Ravouvou Street, Lautoka.

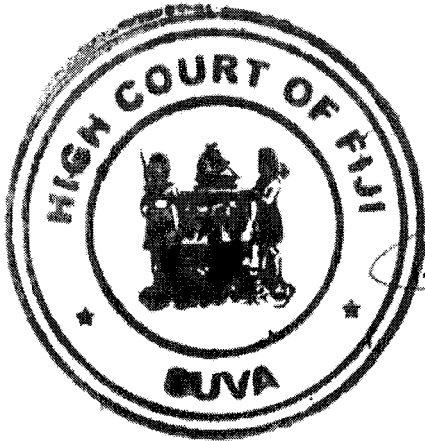
**4<sup>th</sup> RESPONDENT/ 4<sup>TH</sup> DEFENDANT**



- [04]. In this case, the first committal application was withdrawn on 30.11.2018 as leave to issue committal proceedings had lapsed as a result of the matter not being entered for hearing within 14 days after such leave was granted. Order 52, Rule 3(2).
- [05]. On 22.03.2019, the second application to issue committal proceedings was filed and ex-parte leave was granted on 09.04.2019. Pursuant to leave granted on 09.04.2019, the applicant on the same day filed notice of motion for an order for committal.
- [06]. The notice of motion is entered for hearing within 14 days after such leave was granted and the notice of motion specifying the hearing date was served on all the respondents and on 23.04.2019 Mr. Singh confirmed service of the documents.
- [07]. Mr. Singh, counsel for the respondent contends that because a new or adjourned date is fixed for hearing of the notice of motion, the leave granted under Order 52, Rule 2 has lapsed.
- [08]. I cannot agree with this submission. The submission seems to be not well - founded. The motion is clearly entered for hearing within 14 days after such leave was granted. The leave under Order 52, Rule 2 shall not lapse because a new or adjourned date is fixed for hearing. Equally, there is no need to effect service of notification of the adjourned hearing date because the respondents were duly represented by Counsel, Mr. Singh. In my view, Mr. Singh cannot derive any assistance from the decision in 'Phonographic Performance Ltd" (supra) because it stands entirely on a different footing. In that case, the notice of motion was served on the contemnor personally. The contemnor did not appear on the return date of the motion and the hearing date was adjourned for 07.03.1985 and the court ordered that the notice of the new date should be given to the contemnor by registered post. The contemnor did not appear on 07.03.1985 and the matter proceeded for hearing in absentia. After the conclusion of the hearing the registered letter was returned as not being deliverable. On the judge being informed he decided to dispense with the service of notice of the hearing on the 07.03.1985 and said that his order should stand. The contemnor appealed. In appeal it was said that notice of the adjourned date of the hearing on 07.03.1985 ought to have been served on the contemnor personally. In the case before me, Mr. Singh appeared for the respondents at all stages of the legal process and I do not see any need to notify the respondents personally of the adjourned dates of the hearing. It is unnecessary to do so. Mr. Singh counsel for the respondents was present in court at the time when the date of the adjourned hearing is made known.

**ORDERS**

Preliminary objection overruled.



Jude Nanayakkara

**JUDGE**

28/07/2022

High Court - Suva  
Thursday, 28<sup>th</sup> July, 2022