

**IN THE HIGH COURT OF FIJI
(WESTERN DIVISION) AT LAUTOKA
CIVIL JURISDICTION**

CIVIL ACTION NO. HBC 237 OF 2022

BETWEEN : **ARA INVESTMENTS PTE LIMITED** having its registered office at the
Fiji Club, 1 Selbourne Street, Suva, Fiji.

PLAINTIFF

AND : **ROCK HARD ROCK MINES AND QUARRIES PTE LIMITED** a limited
liability company having its registered office at Lot 12 Navakai
Reclamation, Fantasy Road, Nadi, Fiji

DEFENDANT

BEFORE : Hon. Mr. Justice Mohamed Mackie

APPEARANCES : Ms. Sandiya for the Plaintiff

DATE OF HEARING : 3rd October, 2022

DATE OF DECISION : 3rd October, 2022

JUDGMENT

1. The Plaintiff Company by its NOTICE OF MOTION dated and filed on 30th August, 2022, along with the Affidavit in Support sworn by RIZWAN AHAMED DEAN, the Director of the Plaintiff Company, moved for the following reliefs against the Defendant Company.

- i. *That the above-named Defendant by itself or by its servants, agents and/or associates howsoever be restrained from in any manner interfering with the Plaintiff's right of seizure and repossession of the following chattel being Motor Vehicle Registration No. KB 614.*
- ii. *That the above-named Defendant by itself or by its servants, agents and/or associates howsoever immediately release and deliver the vehicle being Motor Vehicle Registration No. KB 614.*
- iii. *That the above-named Defendant by itself or by its servants, agents and/or associates howsoever be restrained from transferring, dealing with, charging, mortgaging, assigning, disposing of, or removing from the jurisdiction any of the above properties or moneys or assets over which the Defendant has ownership or control within the jurisdiction of this Court.*
- iv. *That the Defendant pay all costs and/or charges associated with the conveying of the chattel to Suva.*

- v. *That the Police Officers do act and render all assistance required by the plaintiff in the enforcement of the Orders.*
 - vi. *Costs of this application to be paid by the Defendant.*
 - vii. *Such further relief/ order as this Honorable Court may deem fit and expedient.*
2. The Notice of Motion being supported Ex-parte before me on 31st August, 2022 seeking for reliefs, after hearing the learned Counsel for the Plaintiff, the court granted only the Order in terms of paragraph iii above, which reads as follows.
- iii. *That the above-named Defendant by itself or by its servants, agents and/or associates howsoever be restrained from transferring, dealing with, charging, mortgaging, assigning, disposing of, or removing from the jurisdiction any of the above properties or moneys or assets over which the Defendant has ownership or control within the jurisdiction of this Court.*
3. However, the Court reserved the consideration for granting of other Orders in terms of Motion inter-parte and ordered the Notice of Motion to be served on the Defendant along with a copy of the sealed Order granting relief iii above, returnable on 15th September, 2022.
4. Accordingly, the Order , along with the Notice of Motion being, reportedly, served on a Director of the Defendant Company, when the matter came up on 15th September,2022, as there was no appearance of the Defendant or on its behalf, the Court fixed the matter for hearing today the 3rd October, 2022.
5. When the matter was taken up for hearing today, the Defendant still being absent and even not represented, learned Counsel for the Plaintiff made submissions seeking for the rest of the reliefs as prayed for in the Notice of Motion.
6. On hearing the Counsel for the Plaintiff and perusal of the contents of the Affidavit in support and those of the documents annexed thereto, I am satisfied that the Plaintiff is entitled for the reliefs prayed for therein and unless the Plaintiff is granted those reliefs it would prejudice the rights of the Plaintiff and cause irreparable loss and damages to the Plaintiff.
7. The Defendant being served with the Notice of Motion, for the reason best known to it, has opted to be away from the Court and not to object for the reliefs being granted to the Plaintiff as prayed for. It shows that the Defendant has no objection for Orders being granted in favor of the Plaintiff in terms of the Notice of Motion.
8. Accordingly, I grant orders in terms of the Notice of Motion dated and filed by the plaintiff on 30th August, 2022.

9. The Plaintiff shall be entitled for a summarily assessed cost in a sum of \$1,500.00 payable by the Defendant.
10. This Order shall be sealed and served on the Defendant forthwith.



A.M. Mohamed Mackie
Judge

At High Court Lautoka this 3rd day of October, 2022.

SOLICITORS:

For the Plaintiff: Messrs. Iqbal Khan & Associates.

For the Defendant: Absent & no Representation.