

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

Civil Appeal No. HBA 07 of 2020

Magistrate Court Appeal No: 15 of 2019

Small Claims Tribunal No: 1766 of 2018

**BETWEEN:**           **AUTOWORLD TRADING (FIJI) LIMITED** a limited liability company  
having its registered office at Vatuwaqa, Suva, Fiji.

**APPELLANT**

**AND:**               **JEET SINGH** of Lot 20 Topline, Caubati, Nasinu.

**RESPONDENT**

**BEFORE:**           **Hon. Mr Justice Vishwa Datt Sharma**

**COUNSEL:**       **Mr. Singh S.** for the Appellant  
**Ms. Kete P.** for the Respondent

**Date of Judgment:** 21<sup>ST</sup> February, 2024 @ 9.30am

**JUDGMENT**

[Appeal against the Judgment of the Magistrate's Court of 22<sup>nd</sup> April 2020]

**A. Introduction**

1. On 02<sup>nd</sup> April 2019, the Small Claims Tribunal determined the dispute and found that the Respondent, Autoworld Trading (Fiji) Limited liable to settle the claim in the sum of \$3,800.
2. The Respondent being aggrieved with the orders of the Small Claims Tribunal, filed an Appeal to the Magistrates Court on the following three (3) grounds:

***Ground 1***

3. Whether the Learned Resident Magistrate erred in Law and in fact in dismissing the Appellant's Appeal from the Small Claims Tribunal.

***Ground 2***

4. Whether the Learned Resident Magistrate erred in Law and in fact in holding that the learned Referee of the Small Claims Tribunal did not exceed his jurisdiction when he held the Appellant liable to pay the Respondent the sum of \$3,800.00 for the Respondent failed to adduce any evidence to substantiate the claim. The Learned referee did not make any assessment of the case or call for evidence as shown in the Court Record but gave an analysis in his Referee's report at page 31 of the Record which was inconsistent with the case presented in the Claim and the submissions by the parties.

***Ground 3***

5. Whether the Learned Resident Magistrate erred in law and in fact in holding that the learned Referee of the Small Claims Tribunal conducted the proceedings in a fair manner and this did not affect the outcome of the proceedings when the Small Claims Tribunal was required to act on the evidence before it to make an Order and not to award judgments to litigants based on what was stated in the Particulars of Claim. The Respondent made a claim for compensations for repairs to his motor vehicle and at the time of the hearing of the claim, his vehicle had been repaired. Notwithstanding that the Respondent had not proven his claim against the Appellant, the learned wrongly held that the Appellant was liable to settle the claim for \$3,800.00 when there was no evidence that the Respondent was entitled to be reimbursed for the said sum nor was the claim justified.

**B. Law****Small Claims Tribunal 1991**

6. Sections 8 (1) and section 9 of the Small Claims Tribunal Act 1991 outlines the Jurisdiction of the Tribunal as follows:
  - Section 8(1) subject to this Section and to section 9, a tribunal should have jurisdiction in respect of any claim which does not exceed \$5,000 in value (as amended by Section 2 of the Small Claims Tribunal Decree

[Amendment] Promulgation 2007).

- Section 9(c) of the Small Claims Tribunal Act is relevant and states as follows:

*Further Limitations of Jurisdiction*

9. A Tribunal shall have no jurisdiction in respect of any claim:

- (a) for the recovery of land or any estate or interest therein;
- (b) in which the title to any land or any estate or interest therein, is in question;
- (c) which could not be brought in a Magistrates' Court; and
- (d) which is required by any law to be brought only before any other specified court.

7. That pursuant to Section 33(1) of the Small Claims Tribunal Decree 1991 provides grounds of Appeal from the Small Claims Tribunal. 'Any party to the proceedings before a Tribunal may appeal against an order made by the Tribunal under section 15 (6) and 33(2) on the grounds that:

- (i) the proceedings were conducted by the Referee in a manner which was unfair to the Appellant and prejudicially affected the result of the proceedings; or
- (ii) the Tribunal exceeded its jurisdiction.

8. The most obvious Legislative intentions behind the creation of Small Claims Tribunals is that expressed within the long title of the Small Claims Tribunal Decree which reads:

"At Decree to establish Small Claims Tribunal in Fiji, to provide prompt and inexpensive relief to Claimants."

9. With above in mind, I now dwell onto the Grounds of Appeal before me.

**C. Determination**

10. Issues to be determined in terms of the Grounds of Appeal filed herein;

- (i) Were the proceedings in the Tribunal conducted by the Referee in a manner that was unfair to the Appellant and therefore prejudicially affected the Result?
- (ii) Did the Tribunal exceed its jurisdiction?

11. Both grounds of Appeal directly relates to the merits of the Appeal against the Decision of the Small Claims Tribunal and not to the Learned Magistrates Decision.

12. I have treated this as an Appeal against the Learned Magistrate where the Learned Referee, did not make any assessment of the case or call for evidence as shown in the Court Record but gave an analysis in his Referee's Report which appears at page 31 of the Record which was inconsistent with the case presented in the Claim and the submissions by the parties to the proceedings. Further, that the Respondent failed to adhere any evidence to substantiate his claim.
13. Further, that the Learned Resident Magistrate held that the Referee of the Small Claims Tribunal conducted the proceedings in a fair manner and this did not affect the outcome of the proceedings when the Small Claims Tribunal was required to act on the evidence before it made an Order and not to award judgments to litigants based on what was stated in the 'Particulars of Claim'.
14. The Respondent made claim for Compensation for repairs to his motor vehicle when his vehicle had been already repaired. The Respondent had not proven his claim against the Appellant and therefore the Learned Resident Magistrate has wrongly held that the Appellant was liable to settle the claim for \$3,800 when there was no evidence that the Respondent was entitled to be reimbursed for the said sum nor was the claim justified.
15. It is trite that an Appellate Court will not lightly interfere with the Exercise of a Judicial Discretion and should only do so where it is satisfied that the Learned Resident Magistrate has erred in principle by giving weight to something he ought not to have taken into account or failed to give weight to something which he had taken into account or was plainly wrong in its decision [case of **Sheet Metal and Plumbing (Fiji) Limited and Uday Narayan Deo** (1999) FJHC 26; HBA 0007d.99S (14 April 1999) refers.
16. In Griffiths L. J. said in **Eagil Trust v Puggott- Brown** [1985] 3 All E R 119 @ p.121.

"There is a heavy burden on an Appellant to demonstrate to this Court that the (Magistrate) has either failed to apply well-settled principles or alternatively, that his discretion can be attacked on what are colloquially known as 'Wednesbury Grounds.'"
17. I am far from satisfied that the Appellant, Autoworld Trading (Fiji) Limited has discharged the heavy burden placed on it to demonstrate that the Magistrate has either failed to apply well-settled principle or alternatively, that his discretion can be attached on 'Wednesbury grounds.
18. As to the manner or procedure required to be followed by the Small Claims Tribunal referee in conducting a proceedings under the Small Claims Tribunal Decree, these are principally to be found in sections 24 to 29 (inclusive) under the heading '**HEARINGS.**' A cursory Examination of these provisions serves to highlight the informal, non-adversarial nature of proceedings before the Small Claims Tribunal and militates against a general appeal on the merits or for errors of law.
19. The non-legalistic nature of a Tribunal proceedings is further exemplified by the requirement in **section 15 (4) of the Decree** that:

*The Tribunal shall determine the dispute according to the substantial merits and*

*justice of the case and in doing so.....shall not be bound to give effect to strict legal rights or obligation, or to Legal forms or technicalities.*

20. The Small Claims Tribunal Referee in his 'Referees Appeal Report' pursuant to Section 34 of the Small Claims Tribunal Decree 1991, gave the award pursuant to Section 15 (14) of the Small Claims Tribunal Act. The Tribunal determined that the Appellant, Autoworld Trading (Fiji) Limited was liable to settle the claim by paying \$3,800 in cash at the Small Claims Tribunal Registry within 14 days from 02 April 2019.
21. The Small Claims Tribunal Referee further found that the procedure was conducted in a fair manner. Both parties were given time to present their case to the Tribunal. The Tribunal gave a fair hearing by allowing both parties to voice their opinion during the proceedings.
22. That there is no question about the Jurisdiction as that has nothing to do with a ground of this Appeal. The Hearing was conducted in a fair manner by listening to presentations from both parties at the same time going through the documents in detail. Therefore, the Defendant did not hold the threshold set out in Section 33(i), (a) of the Small Claims Tribunal Decree, 1991.
23. Likewise, the presiding Resident Magistrate had gone through the Copy Court Records and found no suggestions that the Learned Referee did not hold the hearing of the proceedings in a fair manner that would affect the proceedings and that the law does not support the Appellants Argument.
24. Further, that the Small Claims Tribunal claim was within the jurisdiction and was adjudicated upon with propriety. That there was no legislative reason to upset the Small Claims Tribunal Referee's Decision and accordingly dismissed the Appeal.
25. The Appellants argument is misconceived when he submitted that the Small Claims Tribunal established the analysis of this case on one issue of unqualified mechanics and failed to take into consideration of the Counter-claim by the Appellant against the Respondent. There was no careful consideration of the Appellants Evidence that there was assurance given to the Respondent to pay the remaining balance in cash and that he breached the undertaking when he failed to pay in time. Further, that the Referee acted beyond his Jurisdiction and did not consider the totality of evidence at the hearing.
26. Taking into consideration the grounds of Appeals filed herein together with the merits of the case on facts but more importantly to determine the unfairness that prejudicially affected the result and/or that the Small Claims Tribunal was beyond its jurisdiction, I find that the Appellant, Autoworld Trading (Fiji) Limited has not satisfied the Magistrates Court nor the High Court on two (2) grounds of Appeal as it has failed to provide valid and material reason to allow the appeal.

### **C. Conclusion**

27. Therefore, for the aforesaid rational, the Appellants Appeal on the Two (2) grounds are accordingly dismissed in its entirety.

28. The Small Claims Tribunal order of 12<sup>th</sup> March 2019 coupled with the Resident Magistrates Judgment delivered on 22<sup>nd</sup> April 2020 are accordingly affirmed.

**D. Costs**

29. The Appeal proceeded to full hearing and determination. It is only fair that the Appellant pays the Respondent/Claimant, Jeet Singh a summarily assessed cost of \$1,000 within 14 days timeframe.

**Orders**

- (i) The Appellants Appeal herein is dismissed in its entirety accordingly.
- (ii) The Small Claims Tribunal orders of 12<sup>th</sup> March 2019 coupled with the Resident Magistrates Judgment delivered on 22<sup>nd</sup> April 2020 are accordingly affirmed.
- (iii) The Appellant to pays the Respondent/Claimant, a summarily assessed cost of \$1,000 within 14 days timeframe.
- (iv) The Senior Court Officer to remit the respective files together with all documents intact to the respective court registries accordingly.

Dated at Suva this 21<sup>st</sup> day of February ,2024.



**Cc: SHELVIN SINGH LAWYERS, SUVA  
NILESH SHARMA LAWYERS, SUVA**