

IN THE SUPREME COURT OF FIJI
APPELLATE JURISDICTION

CIVIL PETITION NO. CBV 0019 OF 2024
[COURT OF APPEAL NO. ABU 012 OF 2020]

BETWEEN

ESAVA CAKAUNITAVUKI

APPELLANT

AND

BSP LIFE (FIJI) LIMITED
and BSP HEALTH CARE (FIJI) LIMITED

RESPONDENTS

Coram : Chief Justice Salesi Temo,
President of the Supreme Court

Counsels : Ms. L. Vaurasi for the Appellant
Mr. J. Apted for the Respondents

Date of Hearing : 13 February and 13 May 2025

Date of Ruling : 9 June, 2025

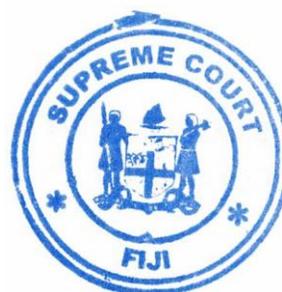
**RULING ON SUMMONS FOR EXTENSION/ENLARGEMENT
OF TIME TO FULFILL PETITION CONDITION**

1. On 25 November 2024, the petitioner filed a summons for the extension/enlargement of time to fulfill Petition's condition, pursuant to Rule 17(4) of the Supreme Court Rules 2016.
2. The summons was supported by an affidavit from Seruwaia Mataitini Nayacalevu of 41 Gladstone Road, a legal practitioner. The affidavit was also filed on 25 November 2024, and it contained 15 paragraphs.
3. In the summons, the Petitioner asked for the following orders:

1. The Petitioner be granted leave to serve its Petition on the Registrar outside of time;
 2. The Petitioner be granted leave to file its Affidavit of Service in respect of the service on the Respondents and Registrar outside of time;
 3. The costs of and occasioned by this application be in the cause; and
 4. Any other order the Court deems just and expedient.
4. I heard the summons on 13 February and 13 May 2025, and adjourned the matter for a ruling on 9 June 2025. The Petitioner had filed her submission and a list of authorities on 19 March 2025, while the Respondents filed their submissions and a list of their authorities on 10 April 2025. I thank the parties for their submissions and list of authorities.
5. Supreme Court Rules 17(1), (2) and (4) reads as follows:
- “17 (1) If a Petitioner has not fulfilled the conditions of a Petition imposed by these Rules or orders of the full Court or single judge, the Registrar must certify the fact to the Court by means of Form 7 in Schedule 1 and the Court may thereupon after giving notice to all parties order that the Petition be dismissed with or without costs.
- (2) If a Respondent alleges that the Petitioner has failed to fulfil any of the conditions of the Petition imposed by these Rules or orders of the full Court or single judge, the Court may, if satisfied that the Petitioner has so failed, upon notice to all parties dismiss the Petition for want of prosecution, non-compliance with Rules or orders, or make any other order as the justice of the case requires.
- (4) Notwithstanding the preceding provisions of this Rule, a Petitioner may apply to the Court for an extension of time in which to fulfil the conditions of the Petition imposed by these Rules or by the full Court or single judge and the Court may, for good and sufficient cause, grant an extension of time subject to any conditions the Court may impose.”
6. Ms. Nayacalevu’s affidavit states that the Petitioner wanted to appeal against the Fiji Court of Appeal decision in Civil Appeal No. ABU 12 of 2020, which was decided on 27 September 2024. They had until 11 November 2024 to file and serve their petition for leave to appeal with a supporting affidavit. The Petitioner’s solicitor was instructed to appeal

against the above Court of Appeal decision on 7 November 2024, and on the same day, they filed their petition and supporting affidavit.

7. According to Ms. Nayacalevu's affidavit, service of the petition and supporting affidavit was done on the Respondents on 7 November 2024 at their last known address at Level 10, Suva Central Building, Suva, and at their new address at Level 7, BSP Life Centre, Thompson Street, Suva on 8 November. This was done before the 11 November 2024 deadline.
8. In Ms. Nayacalevu's affidavit, she admitted that the Chief Registrar was served with a copy of the Petition and affidavit in support on 21 November 2024, somewhat 10 days after the 11 November 2024 deadline. She admitted the Petitioner did not serve the Chief Registrar within time.
9. Pursuant to Rule 17(4) of the Supreme Court Rule 2016, has the Petitioner shown good and sufficient cause to enable the Supreme Court to grant him an extension of time to serve the documents identified in orders 1 and 2 of the Summons? I had carefully read and analyzed the papers the parties submitted to the Court. I had carefully read the submissions and the authorities they submitted. In my view, and in the interest of justice, and especially on the issue of an ordinary person's right to access justice, and given the parties' written and oral submission, I find good and sufficient cause, to grant the Petitioner an extension of time.
10. I grant orders in terms of the summons filed on 25 November 2024. There is no prejudice against the Respondents, as they can ask for security for costs. I order so accordingly.




Salesi Temo
Chief Justice

Solicitor for Petitioner: Shekinah Law, Suva.
Solicitor for Respondent: Munro Leys, Suva.