



**IN THE SUPREME COURT OF NAURU
AT YAREN
PROBATE JURISDICTION**

Civil Case No. 17 of 2020

BETWEEN : CIDRO NAMADUK

Plaintiff

AND : NAURU REHABILITATION CORPORATION

Defendant

BEFORE: Keteca J

DATE OF SUBMISSIONS: 23rd December 2025

DATE OF RULING: 06th March 2026

CITATION : Namaduk v NRC

KEYWORDS: Inherent Jurisdiction of the Court

APPEARANCES:

COUNSEL for the

Plaintiffs: V. Clodumar

Defendant: M. Degei

RULING

BACKGROUND

1. As submitted by Counsel for the Defendant, the proceedings are tabulated as follows:

Date	Proceedings	Counsel
04 th August 23	Statement of Defence filed	Secretary for Justice
07 th November 23	Reply to Statement of Defence	CSA
15 th December 23	Pre-Trial Minutes filed	CSA/ Sec for Justice
16 th July 24	Supplementary reply to Statement of Defence	CSA
13 th January 25	Notice of Change of Solicitors filed	DA Law & Associates
23 rd June 25	Hearing of case. Examination in chief of Plaintiff and Cross-examination	DA Law & Associates
11 th July 25	Motion to recall Plaintiff filed	DA Law & Associates

THE APPLICATION

2. Relying on Order 7 Rule 2 of the Civil Procedure Rules 1972 and the inherent jurisdiction of this court, the Defendant seeks the following orders:
 - i. The Plaintiff be recalled to be cross-examined again by Defence Counsel; and
 - ii. The matter to resume its normal cause with the continuation of the trial.

3. The Defendant relies on the affidavit of Mr Horatio Cook, filed on 11th July 25, who deposes:
 - i. He is the Counsel assisting Mr Marika Degei, representing the Defendant in this matter. Mr Degei had just joined their firm and was briefed by their principal on 21st June 25. The trial began on 23rd June.
 - ii. Mr Degei did not have time to meet the ‘servants and Management Staff of the Defendant.
 - iii. After the first day of the trial, he and Mr Degei met with the Management of the NRC. They came to know of certain facts for the first time then.
 - iv. They wish to recall the Plaintiff to be cross examined on new information obtained from the Management of NRC.
 - v. It is in the best interests of justice and without prejudice to the Plaintiff that he be recalled.

4. On 14th August 25, Mr Horatio Cook deposed another affidavit stating:
 - i. The Plaintiff had been paid all that were due to him during his time of suspension.
 - ii. This evidence needs to be put to the plaintiff when he is recalled.

RESPONSE BY THE PLAINTIFF

5. The Plaintiff deposed that:
 - i. His claim was filed back on 01st June 2020. The Defendant was represented by the Secretary of Justice until the change of solicitor to DA Law & Associates on 13th January 2025.
 - ii. He has already given his evidence in chief and cross examined on the same.
 - iii. The claim that the he has been paid all his dues are not in the statement of defence of the Defendant and to allow this application will deny him procedural fairness and natural justice.

WRITTEN SUBMISSIONS

6. Counsel for the Defendants refers to the ‘Inherent Jurisdiction ‘of this court and cites *Temaki v Sec for Justice* [2019] NRSC 46; Miscellaneous Cause 64 of 2014 (11th December 2019)- per Khan J-
*‘Inherent jurisdiction is a common law doctrine and it is defined in an article titled ‘The Inherent Jurisdiction and its Limits’ [4] where it is stated:
Jacob’s account of Inherent Jurisdiction*

The modern account of inherent jurisdiction begins with Sir Jack Jacob's seminal piece 'The Inherent Jurisdiction of the Court'[5]. Jacob defines 'inherent jurisdiction' as the:

[...] residual source of powers, which the court may draw upon as necessary whenever it is just or equitable to do so, in particular to ensure the observance of the due process of law, to prevent vexation or oppression, to do justice between the parties and to secure a fair trial between them.

Khan J added-

'Inherent jurisdiction being the common law of England became the law of Nauru pursuant to s.4(1) of the Custom and Adopted Laws Act 1971.

The 'inherent jurisdiction' [6] and 'supervisory jurisdiction'[7] has now been codified in the Supreme Court Act 2018. S.37 states:

Supreme Court Supervisory Jurisdiction

(1) The court as the superior court shall have the supervisory power and jurisdiction over subordinate or inferior courts and tribunals.

(2) In exercise of the supervisory jurisdiction, the Supreme Court shall grant such prerogative reliefs as it deems fit or as prescribed by the rules of the court.

(3) Where an appeal procedure is provided to appeal a judgement, a decision or order of the subordinate or inferior court or tribunal to the Supreme Court, the only remedy of redress for review of decision of such subordinate court or tribunal is by way of an appeal.

7. Counsel submits that based on the above, to do justice between the parties, the Plaintiff is to be recalled to be cross-examined.

CASE-LAW

8. *Reid v Reddy* [1999] WASCA 208- 'It is well settled that the *decision whether leave should be granted to recall a witness who has been already concluded his or her evidence lies in the discretion of the trial judge.*'
9. Counsel adds that the failure of the Defendant to put those documents to the Plaintiff when he was initially cross- examined 'was due to oversight and was not a deliberate tactical decision to refrain from raising the matter.'

PLAINTIFF'S SUBMISSIONS

10. The Defendants did not plead that the Plaintiff has already been paid his dues.
11. There is no law in this jurisdiction that allows for the recalling of a witness- whether it be the *Civil Procedure Act 1972*, the *Civil Procedure Rules 1972* or *Civil Evidence Act 1972*.

12. Sections 4(2) and 17(k) of the Supreme Court Act 2018 are relevant here.
13. Referring to *State v Rokotuiwai* [1998] FJHC 42; Hac0009.95 (31 March 1998) where the court observed-

‘INHERENT JURISDICTION

‘Counsel for the accused urged the Court to invoke its inherent jurisdiction. It is submitted that there has been an abuse of process entitling the accused to an award of costs against the State.

The nature of the inherent jurisdiction of this Court is succinctly expressed in commentary on The Code of Civil Procedure in New Zealand at J.16.05 as follows:

"The court, as a source of justice, has inherent jurisdiction to ensure that justice is administered according to law in a regular, orderly, and effective manner. The jurisdiction exists not in contradistinction, but in addition, to the Court's statutory jurisdiction. The Court may exercise its inherent jurisdiction so long as applicable statutes and rules of Court are not contravened. The jurisdiction encompasses making any order necessary to:

- (a) Enable it to act effectively, even in respect of matters regulated by rules of Court, so long as it does not contravene those rules;*
- (b) Ensure that no misuse (abuse) of its powers and procedures occurs in the course of litigation;"*

*The article "The Inherent Jurisdiction of the Court" by Master Jacob (published in 1970 Current Legal Problems at page 23) is recognized as an authoritative treatise on this topic. The learned author notes that an inherent jurisdiction may be exercised in a given case notwithstanding that there are Rules of Court "governing the circumstances of such case" and "the two heads of power are generally cumulative and not mutually exclusive" (page 25). Further, that the inherent jurisdiction enables the Court "to exercise control over process by regulating its proceedings, by preventing the abuse of process and by compelling the observance of process" (page 28). **Finally, that inherent jurisdiction is "a residual source of powers which the Court may draw upon as necessary whenever it is just or equitable to do so, and in particular to ensure the observance of the due process of law, to prevent improper vexation or oppression, to do justice between the parties and to secure a fair trial between them". (page 51)***

14. Counsel concludes that the Defendant is trying to use the court ‘to overcome their failure to do due diligence’ and the application should be dismissed.

CONSIDERATION

15. Article 48(2) of the Constitution provides:

‘The Supreme Court has, in addition to the jurisdiction conferred on it by this Constitution, such jurisdiction as is prescribed by law.’

16. Section 4(2) of the Supreme Court Act 2018, provides:
‘The Supreme Court shall have the jurisdiction conferred on it by the Constitution, this Act, any other written law *and inherent jurisdiction.*’
17. Section 17(k) of the Supreme Court Act 2018 provides:
‘The jurisdiction of the Supreme Court includes:
(a)-(j)
(k) *inherent jurisdiction.*’
18. Section 72 of the Civil Procedure Act 1972 provides:
‘Nothing in this Act shall be deemed to limit or otherwise affect the *inherent power* of any court to make such orders as may be necessary for the ends of justice or to prevent abuse of the process of the court.’
19. This Court has such ‘inherent jurisdiction’ as provided for under the above provisions.
20. When does the Supreme Court exercise such jurisdiction? In the article "The Inherent Jurisdiction of the Court" by Master Jacob (published in 1970 Current Legal Problems at page 23) quoted above, the author states-
- i. *an inherent jurisdiction may be exercised in a given case notwithstanding that there are Rules of Court "governing the circumstances of such case" and "the two heads of power are generally cumulative and not mutually exclusive" (page 25).*
 - ii. *Further, that the inherent jurisdiction enables the Court "to exercise control over process by regulating its proceedings, by preventing the abuse of process and by compelling the observance of process" (page 28).*
 - iii. *Finally, that inherent jurisdiction is "a residual source of powers which the Court may draw upon as necessary whenever it is just or equitable to do so, and in particular to ensure the observance of the due process of law, to prevent improper vexation or oppression, to do justice between the parties and to secure a fair trial between them". (page 51)*
21. In the present case, Counsel for the Defendant intends to recall the plaintiff to the stand so he may be cross examined on the issue of whether he had been paid all that was due to him by the Defendant. Mr Cook deposes in his supplementary affidavit filed on 14th August 25 that- ‘HC1 is an electronic copy of the Bank Deposit and confirmation of payment of Plaintiff’s total dues.’ This HC1 is titled Nauru Rehabilitation Corporation and states the address of the company as 1st Floor, Civic Centre Building, Aiwo District.
22. I note that this evidence of such payment, as submitted as ‘HC1’ in Mr Cook’s affidavit, is in the records of the Defendant as the former employer of the Plaintiff. As the former employer, the Defendant has control and custody of such records.
23. The Defendant can call a representative of the company to present such evidence in court.


24. I find that the present application is not one where the circumstances warrant that the inherent jurisdiction of this court need to be invoked. I further find that ‘ to do justice between the parties and to secure a fair trial between them,’ the Defendant can produce that particular evidence through their own witness. Ultimately, the probative value of such evidence will be for the court to assess.

CONCLUSION

25. The application by the Defendant for the Plaintiff to be recalled as a witness is dismissed.

26. Costs are in the cause.

DATED this 06th Day of March 2026


Kiniviliame T. Ketega

Judge

