

**IN THE SUPREME COURT OF
THE REPUBLIC OF VANUATU**
(Civil Jurisdiction)

Civil
Case No. 22/2604 SC/CIVL

BETWEEN: Smith Wuwut Koro

Claimant

AND: Police Service Commission

First Defendant

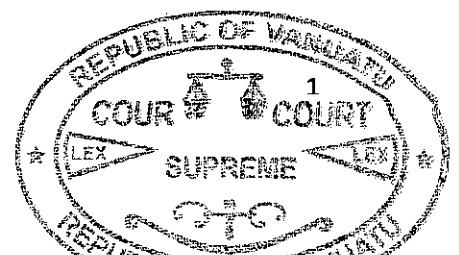
AND: Republic of Vanuatu

Second Defendant

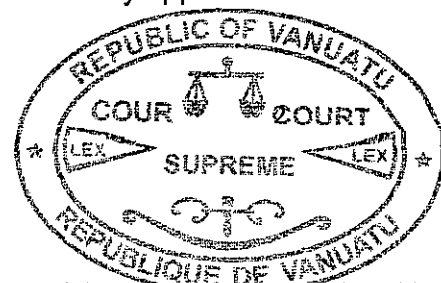
Date: 14 October 2024
Before: Justice V.M. Trief
Counsel: Claimant – in person, koro_smith@yahoo.com.au
Defendants – Mr J. Wells

DECISION AS TO STAY APPLICATION

1. On 20 September 2024, the Claimant Smith Wuwut Koro filed Stay Application against the Decision dated September 13th, 2024, his Sworn statement in support and an Undertaking as to Damages. On 24 September 2024, he filed an Amended Stay Application against the Decision dated September 13th, 2024, his Amended Sworn statement in support and Amended Undertaking as to Damages. The documents filed on 24 September 2024 superceded the documents filed on 20 September 2024.
2. This matter was listed on 13 September 2024 for Mr Koro to show cause why the proceeding should not be struck out for his non-compliance with the Court's Orders. Mr Koro did not attend the show cause hearing. No cause was shown. The Court struck out the proceeding for Mr Koro's non-compliance with the Court's Orders.



3. In his initial sworn statement, Mr Koro apologised for not complying with the Court's Orders and for not attending the show cause hearing on 13 September 2024. He also deposed that he had emailed the Court Clerk Ms Vinabit for a Zoom link so that he could attend the hearing by video link but that no link was forwarded to him. He reserved the right to sue her for negligence and to lodge a criminal complaint against her. He stated that he is currently studying in Fiji and is unemployed therefore cannot pay the costs ordered. Finally, that I failed to recuse myself, that he still has time to pay the costs before the trial date of 12 March 2025 and that the Court has failed to provide time to settle the matter out of Court.
4. In his Amended Sworn statement, Mr Koro relied on the matters raised in the Amended Stay Application which included those raised in his initial sworn statement as well as many unhelpful references to English cases.
5. I now consider the matters put forward by Mr Koro.
6. First, even if a Zoom link had been forwarded to Mr Koro to attend the hearing by video link, he had not by that date paid the costs ordered by the Court. He had been given more than ample time to pay those costs and was given notice by previous Orders that if he did not, he ran the risk of having the matter struck out for non-compliance with the Court's Orders. He did not comply therefore was given notice to show cause, and did not show cause. The matter was struck out.
7. Secondly, Mr Koro could have filed submissions to show cause. However, he did not file submissions before the show cause hearing.
8. Thirdly, even if Mr Koro had been forwarded a Zoom link to attend the hearing or had filed submissions, the fact remains that he had not by the date of the hearing paid the costs ordered by the Court. He was given ample time to pay the costs. He had previously been given notice that if he did not pay the costs, that he ran the risk of having the matter struck out. He now asserts that he cannot pay the costs as he is currently studying and is unemployed. That would carry more weight if Mr Koro has paid even a small amount towards the costs first ordered back on 31 May 2023. However, he has not made any attempt to pay even a portion of the costs ordered. I do not accept that sufficient cause has been shown for Mr Koro's non-compliance with the Court's Orders. In addition, Mr Koro is incorrect that he has time to pay the costs until the trial date given in March 2025. The Court's Orders did not grant him until then to pay the costs. He was required to have paid the costs by the show cause hearing at the latest. He did not. I will now vacate the March 2025 listing.
9. Fourthly, it was asserted that I must recuse myself from dealing with this matter given my former employment in the State Law Office. There has not been any application



for me to recuse myself. I have as a Judge dealt with numerous matters now involving the State. My former employment in the State Law Office is insufficient ground for me to recuse myself.

10. Finally, it is not for the Court to give the parties time to settle the matter. The parties may negotiate settlement at any time. That they have failed to do so cannot be laid at the feet of the Court.
11. For the reasons given, the Amended Stay Application against the Decision dated September 13th, 2024 is **declined and dismissed**.
12. The 12 March 2025 listing is **vacated**.

**DATED at Port Vila this 14th day of October 2024
BY THE COURT**


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Justice Viran Molisa Trief

