

IN THE FIJI COURT OF APPEAL  
CIVIL JURISDICTION

CIVIL APPEAL NO. 56 OF 1982

BETWEEN : RAM LATCHAN (also known as K.R. LATCHAN)  
Appellant

AND : LESLIE REDVERS MARTIN  
Respondent

O R D E R

This is an application for an adjournment to the July Session of the Court of Appeal for hearing of this appeal. Counsel have already been notified that the application is dismissed, and I now proceed to give my reasons for this dismissal.

The Judgment of the Supreme Court was delivered on 13th October, 1982, and notice of appeal was lodged by the appellant (the respondent in the present application) on 27th October, 1982. A stay of execution was granted on terms. Towards the end of January, 1983 counsel were advised that the appeal would be set down for hearing at the March Sessions of the Court of Appeal. When the list was completed for March a fixture was made for hearing of the present appeal on 7, 8 and 9 March, 1983. It was accepted that the case was complicated and 3 days might well be required for a full hearing.

The present application was based on the fact that at the original trial in May 1982 applicant (respondent) was represented by two counsel from Melbourne Australia : Mr. A. Chernov, Q.C. and Mr. J. Karkar, who appeared together with

the respondent's Fiji Counsel Mr. F.G. Keil. Messrs Chernov and Karkar have now sent word that they will not be available on the dates fixed, 7, 8 and 9 March, 1983 because of their "prior Australian commitments". Hence this application for adjournment for a further 4 months.

It is perhaps necessary to state the basic principles on which overseas counsel may appear and be heard on behalf of local parties to litigation in Fiji. From time to time parties to an action have enlisted the aid of counsel of Australia or New Zealand, and no objection has ever been taken to their appearance on the ground that they do not come from Fiji. There have been times when a short adjournment has been granted to meet their convenience. But it has never been held that they are entitled to disorganize a settled Fiji programme because of local engagements overseas. There is no suggestion here that inadequate notice was given to the parties; actually, from the time of notification that the appeal would be heard in March, until the date fixed for the hearing, was a period of 5 to 6 weeks.

It is moreover clear that an adjournment of 4 months would not only disorganize work of the Court, but also would give rise to financial difficulties which appear in the affidavit of Ram Latchan, appellant, and which I do not need to refer to in detail.

Mr. Keil's misgivings are understood and appreciated. But the affidavits filed indicate the desirability of an early hearing. The Courts will do what they can to ensure that both sides of an action receive basic justice; but the principles guiding the administration of justice must pay due regard to the sound working and organization of the Courts and their programme.

3.

For these reasons the application is dismissed. Applicant - respondent - will pay appellant's costs of the present proceedings, the quantum to be agreed upon by the parties or failing such agreement, to be fixed by the Chief Registrar.

(sgd)  
(C.C. Marsack)  
Judge of Appeal

16 February, 1983.