

IN THE FIJI COURT OF APPEAL

Civil Appeal No. 38 of 1985

Between:

SOHAN SINGH
s/o Jhora Singh

Appellant

and

SHIU NATH
s/o Bechai

Respondent

Date of Hearing: 8th November, 1985

Delivery of Judgment: 14. 11.85

JUDGMENT OF THE COURT

Nishra, J.A.

This is an appeal against a judgment of the Supreme Court, Labasa, dismissing the appellant's claim for moneys lent to the defendant and interest thereon on the ground that he, at the relevant time, was an unlicensed money-lender.

The sole ground urged in support of the appeal is :-

"THAT the Learned Trial Judge erred in law and infact in holding that the Appellant was engaged in the business of money lending under the Money-lenders Act (Chapter 234) when there was

insufficient evidence to come to this conclusion and hence there has been a substantial miscarriage of Justice. "

The only witness at the trial was the appellant himself whose own evidence the respondent relied upon to establish that he was lending money regularly on interest in 1981, 1982 and 1983 without a money-lender's licence.

According to his statement of claim he had made 7 different loans to the respondent between 16.7.1981 and 4.3.1983 and he was claiming from him a total sum of \$5,460 which included \$565 described as "interest at the agreed rate of 10%". In his evidence he repeated that the respondent had agreed to pay interest. He, however, was prepared to abandon that part of the claim.

In cross-examination he admitted that -

- (a) he derived his income from a theatre and from lending money;
- (b) in two years (1982-83) he had made over one hundred loans to various people; and
- (c) he did not obtain a licence under the Money-lenders Act until 1985.

There was no re-examination of him by his counsel.

The learned Judge in a brief judgment found it established on the appellant's own admissions that in the years 1981, 1982 and 1983 he was conducting the business of a money-lender without a licence and we cannot see how he could have come to any other view.

3.

The evidence does not support the appellant's contention that this was a case of an isolated transaction between old friends and the authorities cited by him, therefore, do no assist him.

The appeal is dismissed with costs to be taxed in default of agreement.

G. Bengler
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VICE PRESIDENT

P. DeLoe
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JUDGE OF APPEAL

Samuel M. Keenan
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JUDGE OF APPEAL