

IN THE COURT OF APPEAL at Suva
APPELATE JURISDICTION

CIVIL APPEAL No. ABU 0001 of 2008
CIVIL APPEAL No. ABU 0008 of 2008
[High Court Civil Action 445 of 2004]

BETWEEN : **NAVIN PRASAD**
Appellant

AND : **ATTORNEY GENERAL OF FIJI**
1st Respondent

AND : **PETER PRASAD**
2nd Respondent

AND : **AUTODIRECT & EQUIPMENT LIMITED**
3rd Respondent

Counsel for the 1st Respondent/Applicant : Ms Vuniwaqa

Counsel for the Appellants/Respondents : Mr Waituruturu

Date of Hearing : 6th March, 2009

Date of Ruling : 17th March, 2009

TAXATION OF COSTS

1.0 Overview

- 1.1 There are two appeals against the Attorney General of Fiji against the High Court judgment delivered by Singh J in Civil Action 445 of 2004. Mr Peter Prasad and Mr Navin Pasad, the Defendants in the High Court matter had appealed the decision separately.
- 1.2 The judgment of the Court of Appeal delivered on 27th October, 2008, had ordered that both appeal be dismissed and that the Appellant in each appeal (Peter and Navin Prasad) pay costs to the Attorney General of Fiji "*as taxed or as otherwise agreed*"

- 1.3 Counsel for the Attorney General's Chambers filed their Bill of Costs on 29th December, 2008, claiming a sum of \$5,638.00, for both appeal.
- 1.4 The matter was heard on 6th March, 2009, after an adjournment to allow the Appellants/Respondents to reply for which they did not do so. There was no argument at all about the law and the focus was merely on the amount of costs proposed by the Applicant.
- 1.5 At the hearing, the Appellants' counsel argued that some itemized costs were too much while some are fair. The Court went through the items with both parties and some alterations had to be made as some of those items did not reflect the proper amount for the scale cited, according to the Rules.

2.0 Arguments:

- 2.1 Counsel for the Respondent/Applicant argued that each item should be taxed on the higher scale of the standard basis because the appeal was frivolous and a waste of time and effort as there was only a single issue argued. Actually, they had asked for costs on indemnity basis but it was not granted.
- 2.2 The Counsel for the Appellants/Respondents, as mentioned above, had not provided the Court with a written reply to the Bill of Costs as ordered by the Court but had argued that a number of items were just too much for the scale in which it appeared.
- 2.3 There was no argument on disbursements and they shall remain as submitted.
- 2.4 After hearing both sides of the arguments and giving it due considerations, the Bill of Costs is now taxed as follows.

IN CIVIL APPEAL ABU 0001 OF 2008

<u>Item</u>	<u>Scale</u>	<u>Particulars</u>	<u>Disbur sement</u>	<u>Costs submitted</u>	<u>Allowed</u>
1.	8	Receiving & attending to judgment and order	\$30	\$100	\$80
2.	4(a)(b) &	Receiving service of notice & Grounds of Appeal & obtaining instructions		\$125	\$100
3.	24(a)	Receiving service of summons to fix security for costs &		\$300	\$200

		obtaining instructions Appearance in Court			
4.	8	Receiving service & attending to Court Record		\$100	\$80
5.	24(a)	Court Appearance for Call over		\$150	\$150
6.	26	Receiving service & attending to Appellants' submission - research		\$500	\$400
7.	26	Receiving service & attending to 3 rd Respondent's submission		\$500	\$400
8.	26	Research preparations & service of 1 st Respondent's submission	\$30	\$500	\$400
9.	26	Court appearance for hearing		\$500	\$400
10.	24(a)	Court appearance for delivery of judgment		\$150	\$150

IN CIVIL APPEAL ABU 0008 OF 2008

<u>Item</u>	<u>Scale</u>	<u>Particulars</u>	<u>Disburs ement</u>	<u>Costs submitted</u>	<u>Allowed</u>
1.	8	Receiving service & attending to Judgment Order	\$30	\$100	\$80
2.	4(a)(b)	Receiving service of Notice of Appeal & obtaining instructions		\$125	\$100
3.	24(a)	Receiving service of Summons to fix Security for Costs & Court appearance		\$300	\$200
4.	24(a)	Court Appearance on Call Over		\$150	\$150
5.	8	Receiving service & attending to		\$100	\$80

		Court Record			
6.	26	Court appearance for hearing		\$500	\$400
7.	24(a)	Court appearance for delivery of judgment		\$150	\$150
8.	31	Receiving instruction to pursue taxation & preparation/service of Bill of Costs	\$30	\$200	\$200
9.	31	Preparation & service of certificate of allocatur	\$30	\$200	\$200

TAXED COSTS

<u>TAXATION OF COSTS</u>	<u>ABU 0001 of 2008</u>	<u>ABU 0008 of 2008</u>
<u>Disbursements</u>	\$60.00	\$90.00
<u>Taxed Costs</u>	\$2,360.00	\$1,560.00
<u>12.5% VAT</u>	\$302.50	\$206.25
<u>TOTAL</u>	<u>\$2,722.50</u>	<u>\$1,856.25</u>

3.0 ORDER:

1. Taxed costs for ABU 0001 of 2008 is **\$2,722.50**
2. Taxed costs for ABU 0008 of 2008 is **\$1,856.25**
3. Total costs taxed for both appeal is **\$4,578.75**
4. The **\$1,200** paid as Security for Costs be paid out to the Attorney General's Chambers and be deducted from the total taxed sum of \$4578.75.
5. The balance of **\$3,378.75** to be paid by the Appellants to the Attorney General's Chambers within 28 days.

Dated this 17th March, 2009





E. C. Koroi
Taxing Master