

THE COURT OF APPEAL, FIJI
[ON APPEAL FROM THE HIGH COURT]

Civil Appeal No. ABU 0023 of 2017
(HBC No. 011 of 2012)

BETWEEN : NAREND PAL
Appellant

AND : GYANENDRA PRAKASH
1st Respondent

AND : RAM PIYARE & SONS LTD
2nd Respondent

Coram : Almeida Guncratne, JA

Counsel : Mr. S. Prasad for the Appellant
Ms. J. Prasad for the 1st Respondent
: Mr. A. Sen for the 2nd Respondent

Date of Hearing : 29th September 2020

Date of Ruling : 06 November 2020

RULING

[1] This is a case where a single Judge of this Court on 5th July, 2018 had granted extension of time to appeal the Judgment of the High Court dated 24th November, 2016.

- [2] Consequently, the full Court became possessed of the matter to hear and determine the Appeal.
- [3] Thereafter, beginning from the 1st April 2020, the matter had been listed before me as a single Judge for consequential procedural steps to be taken by the Appellant.
- [4] This Court having granted indulgence to the Appellant to have the Appeal Record perfected in terms of the orders made by the said Single Judge ruling of 5th July 2018, one outstanding matter still stood for consideration viz: the filing of the Appellant's written submissions under and in terms of the applicable practice directions which the Appellant filed on 20th August, 2020.
- [5] Thereafter, when the matter was called before me on 21st August 2020, Counsel for the 1st Respondent withdrew from the proceedings. On that date, I made order granting a date for the 2nd Respondent to file written submissions by 15 September, 2020.
- [6] On the said date (21st August 2020) I did say "hearing fixed for 29th September" which was in regard to dates being given for the filing of written submissions.
- [7] Certainly, it was not in regard to the Appeal in respect of which I had no Jurisdiction to entertain, hear and determine but, limited to a consideration of the lapse on the part of the Appellant to have filed written submissions as per the terms of the Practice Directions and to make consequential orders in that regard pursuant to Section 20(1) (k) of the Court of Appeal Act (Cap 12) ("the Act").
- [8] Although the 2nd Respondent has not stayed within the time set by me to tender his written submissions I direct the Registrar to file them of record and accept the Appellant's reply submissions thereto by 11th November 2020, and file them of Record.

[9] Accordingly, I proceed to make my orders in the context of the present application which I entertained in pursuance of Section 20(1)(k) of the Act as follows:

Orders of Court:

1. *The Registrar is directed to act in terms of what I have said in paragraph [8] above.*
2. *The Registrar is further directed to have the Appeal listed before the Full Court for hearing on a convenient date.*
3. *There shall be no costs.*



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Almeida Guneratne
JUSTICE OF APPEAL