

IN THE COURT OF APPEAL, FIJI
[On Appeal from the High Court]

CIVIL APPEAL NO. ABU 098 of 2024
[In the High Court at Suva Case No. HBC 116 of 2024]

BETWEEN : **DINESH KUMAR MANI TRADING AS DAKS KARWASH & DETAILING** of Lot 10 Gordon Street, Suva.

Appellant
(Original Defendant)

AND : **RODERICK GORDON JEPSEN, LEO BACKHOUSE SMITH AKA LEO BARRY SMITH AND WAYNE WONG** as trustees of Defence Club.

Respondent
(Original Plaintiff)

Coram : Prematilaka, RJA

Solicitors : Ms. K. Maharaj for the Appellant
Mr. S. Nandan and Ms. K. Kumar for the Respondent

Date of Hearing : 14 March 2025

Date of Ruling : 17 March 2025

RULING IN CHAMBER

[1] The appellant had appealed in a timely manner against the Ruling¹ by the High Court *inter alia* ordering the eviction of the appellant and cost of \$3000.00 against the appellant.

¹Jepsen v Mani (trading as Daks Karwash & Detailing) [2024] FJHC 674; HBC116.2024 (13 November 2024)


[2] Consequently, summons for security for cost (SFC) had been filed and the Chief Registrar on 11 February 2025 had determined SFC at \$3000.00 to be paid within 28 days. The appellant appears to have failed to comply. Therefore, in terms of Rule 17(2) of the Court of Appeal Rules, the appeal is deemed abandoned. However, the Court of Appeal Registry has not served the appellant with a notice of abandonment with the sanction of the court as required by Practice Direction No.01 of 2023. Thus, technically, the appeal is still on foot.

[3] In the meantime, on 14 March 2025 the appellant has tendered a notice of discontinuance to discontinue the appeal with the concurrence of the respondent that there would be no cost. Accordingly, I make the following orders.

Orders of the Court:

1. *Appeal is dismissed in terms of section 20(1)(h) of the Court of Appeal Act.*
2. *No order as to cost.*




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Hon. Mr. Justice C. Prematilaka
RESIDENT JUSTICE OF APPEAL

Solicitors:

Nambiar Lawyers for the Appellant
Reddy & Nandan Lawyers for the Respondent