

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

CIVIL APPEAL NO. ABU 116 of 2023
[In the High Court at Lautoka Case No. HBC 065 of 2020]

BETWEEN : **SAILESH CHAND** of Nasau, Nadi, Mechanic.

Appellant
[Original Defendant]

AND : **DAVENDRA PRASAD** of Nasau, Nadi, Farmer as the Soles
Executor and Trustee of the Estate of Sambu Prasad aka Sabhu
Prasad aka Shambhu Prasad, Deceased.

Respondent
[Original Plaintiff]

Coram : **Prematilaka, RJA**

Counsel : **Ms. C. Naicker for the Appellants**
Mr. S. Kumar for the Respondent

Date of Notice of
Discontinuance : **16 April 2025**

Date of Ruling : **25 April 2025**

RULING IN CHAMBERS

[1] I as a single Judge already delivered the Ruling in this appeal on 14 April 2025¹ and the orders were as follows:

'Orders of the Court:

- 1. Abandonment of the appellant's appeal in ABU 116 of 2023 is declared null and void.*

¹ **Chand v Prasad** [2025] FJCA 60; ABU051.2024 (14 April 2025)

2. *Appellant's appeal in ABU 116 of 2023 is pro forma reinstated.*
3. *Appellant is directed to apply to the Chief Registrar within two weeks hereof for an extension of time to pay security for cost.*
4. *If the appellant fails to comply with order [3], I hereby sanction the abandonment of the appeal in ABU 116 of 2023 without any further notice of abandonment being served on him by the Chief Registrar.*
5. *The appellant is directed to terminate the proceedings in ABU 051 of 2024 by filing a notice of discontinuance within two weeks hereof.*
6. *No order for cost.'*

[2] As per Order 5 of my Ruling, the appellant's solicitors has filed a notice of discontinuance and summons for extension of time to pay security for cost (see Order 3 of the Ruling) on 22 April 2023. The summons for extension of time to pay security for cost must be issued by the Chief Registrar and not by me as a single Judge.

Orders of the Court:

- [1] *The application by the appellant to withdraw/discontinue the appeal is allowed.*
- [2] *Appeal is accordingly dismissed in terms of section 20(1)(h) of the Court of Appeal Act.*
- [3] *No costs.*




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Hon. Mr Justice C. Prematilaka
RESIDENT JUSTICE OF APPEAL

Solicitors:

Messrs Fazilat Shah Lawyers for the Petitioner
Ravneet Charan Lawyers for the Respondent