

**IN THE HIGH COURT OF FIJI**  
**AT SUVA**  
**CIVIL JURISDICTION**

**Civil Action No. 136 of 2013**

**IN THE MATTER OF PACIFIC  
BROADCASTING SERVICE LTD**

**AND**

**IN THE MATTER OF SECTION 28 (7)  
OF THE TAX ADMINISTRATION  
DECREE 2009**

**BETWEEN :** **FIJI REVENUE & CUSTOMS AUTHORITY**, a duly registered body  
having its registered office at Queen Elizabeth Drive, Nasese, Suva

***APPELLANT***

**AND :** **SIMON PETER FONG**, Director of **PACIFIC BROADCASTING  
SERVICES LTD**, of 43 Kanavi Street, Vatuwaqa, Suva

***RESPONDENT***

**Appearance :** **MR VEREBALAVU** for the **Petitioner**  
**MS RAKAI M.** for the **Respondent**

**Date of Judgment:** 14<sup>th</sup> October, 2013

**JUDGMENT**

1. The Petition was filed by Fiji Revenue and Customs Authority on 13<sup>th</sup> May 2013 and sought the following Orders:

- (a) *For sale of the properties in any manner to be determined by the Petitioner;*
  - (b) *For the appointment of Receiver of the Rents, Profits or income thereof; and*
  - (c) *For the payment of the amount of the charge and the cost of the Petitioner out of the proceeds of the sale or out of the rents, profits or income;*
  - (d) *The Chief Registrar to sign the transfer document of the Tax Payer's property is sold.*
2. The said Petition was supported by the Affidavit dated 9<sup>th</sup> May 2013 inter-alia deposed that the Respondent Company owed the Petitioner Vat and Withholding Tax together with penalties in a sum of One Million Three Hundred and Eighty Nine Thousand One Hundred and Eighty Nine Dollars and Four Cents (\$1,389, 189.04) (Annexure marked 'VD A' to the Affidavit).
3. The Affidavit of Service was filed on 4<sup>th</sup> July 2013 and the matter was taken up on 23<sup>rd</sup> July 2013 and this court made the following directions:
  - (a) *Affidavit in Opposition to file and serve before 15<sup>th</sup> August 2013;*
  - (b) *Any response by the Petitioner to file and serve before 29<sup>th</sup> August 2013;*
  - (c) *Matter was fixed for hearing on 14<sup>th</sup> October 2013 at 9.30am;*
  - (d) *Any written submissions to be filed before the hearing date.*
4. When the matter was taken up for hearing on 14<sup>th</sup> October 2013, at 9.30am it was found directions were not complied. Ms Rakai M. counsel for the Respondent stated that since there is no defence for the Respondent as such the Respondent did not adhere to the Directions by this Court. The counsel further stated the Defendant requested 6 months time from the Petitioner to relocate itself and vacate the Property (Certificate of Title No. 13833 situated at Lot 3 DP No. 3587, Viti Levu, Suva – Annexure marked 'VD B').

5. The Petitioner's counsel agreed to grant 6 months time from today to vacate the property, Accordingly, I enter the Judgment in favour of the Petitioner and make the following Orders, subject to the execution of the Orders to take place after 15<sup>th</sup> April 2014:

- (a) *Ordered to sell the property described in the Certificate of Title No. 13833 situated at Lot 3 on DP No. 3587, Viti Levu, Suva in the manner determined by the Petitioner;*
- (b) *Ordered to appoint Receiver for the collection of rents, profits or income thereof;*
- (c) *Ordered to recover charges and the costs of the Petitioner out of the proceeds of the property or out of the rents, profits or income;*
- (d) *Direct the Chief Registrar to sign the transfer documents if the said property described in the Certificate of Title No. CT 13833 is sold.*

Delivered at Suva this 14<sup>th</sup> Day of October, 2013.

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**C. Kotigalage**  
**JUDGE**

