

IN THE HIGH COURT OF THE REPUBLIC OF FIJI
WESTERN DIVISION
AT LAUTOKA

CIVIL JURISDICTION

(WINDING UP) CASE NO. HBE 32 OF 2013

**IN THE MATTER OF BULA ISLAND GOOD
SUPPLIES LIMITED** a limited company
having its registered office at Queens
Road, Martintar, Nadi, P O Box 2154, Nadi
(The Company)

AND

IN THE MATTER OF COMPANIES ACT, 247

BETWEEN : **R C MANUBHAI COMPANY LIMITED**

PETITIONER

AND : **BULA ISLAND FOOD SUPPLIES LIMITED**

RESPONDENT

Appearances:

Mr N Padarath for the Appellant

Mr N Vakacakau 1st Respondent

Mr J Pickering for Official Receiver

Date of Hearing : 30/05/2014

Date of Ruling : 30/05/2014

R U L I N G

1. This is an application filed on 12 May 2014 by **BULA ISLAND FOOD SUPPLIES LIMITED** (the Company) supported by an affidavit sworn

by the General Manager of the Respondent Company, which seeks permanent stay of the Winding Up Order made on 29 January 2014.

2. This application is made pursuant to s.252 (1) of the Companies Act (the Act). That section provides:

*“252.-(1) The court may, at any time after an order for winding-up, on the application either of **the liquidator or the official receiver or any creditor or contributory**, and on proof to the satisfaction of the court that all proceedings in relation to the winding-up ought to be stayed, make an order staying the proceedings, either altogether or for a limited time, on such terms and conditions as the court thinks fit.”*

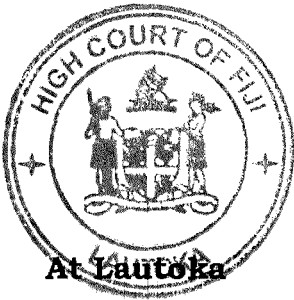
3. The application has been filed by the Counsel on behalf of the company.
4. Mr Padarath, counsel for the petitioner objecting to the application submitted that a wound up company cannot make an application for stay of the Winding-up Order pursuant to s.252 (1). According to that section such application must be made by the liquidator or the official receiver or any creditor or contributory.
5. The company has been wound up by the Court. The stay application has been filed by the Company and the supporting affidavit has been sworn by the General Manager on behalf of the wound up company. A wound up company cannot, by itself, apply for an order that all proceedings in relation to the winding-up ought to be stayed. The General Manager has no right to swear an affidavit on behalf of the wound up Company.
6. The winding up stay application should be made by the Liquidator or the Official Receiver or any creditor or contributory pursuant to s.252 (1) of the Act.

7. There is no proper application under s.252 (1) of the Act. I therefore dismiss and struck out, in limine, the motion filed by the wound-up company, but without costs.

M H Mohamed Ajmeer

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M H Mohamed Ajmeer

Acting Master of the High Court



30/05/14