

IN THE HIGH COURT OF FIJI
WESTERN DIVISION
AT LAUTOKA

CIVIL JURISDICTION

CIVIL ACTION NO. HBC 167 OF 2009

BETWEEN : **ABDUL FEROUZ** of Sigatoka, Boxing Promoter

Plaintiff

AND : **ASHWIN PRASAD** trading as **PRASAD'S MAIN EVENT PROMOTIONS**, Lautoka

Defendant

Appearances:

No appearance for the plaintiff

No appearance for the defendant

Date of Hearing : 25/08/14

Date of Final Order : 25/08/14

FINAL ORDER

- [1] This is a notice issued pursuant to Order 25, Rule 9 of the High Court Rules (as amended) 1988 (HCR) by the High Court Registry at Lautoka to strike out the matter for want of prosecution. Ord. 25, r. 9 provides:

'9.-(1) If no step has been taken in any cause or matter for six months then any party on application or the Court of its own motion may list the cause or matter for the parties to show cause why it should not be struck out for want of prosecution or as an abuse of the process of the Court.

2) *Upon hearing the application the Court may either dismiss the cause [or] matter on such terms as may be just or deal with the application as if it were a summons for directions.* (Emphasis added).

- [2] The notice has been duly served on the Official Receiver, Messrs Rigsby as the Plaintiff's solicitor, Mr I Khan was suspended from practice. The defendant's solicitor, Mr Haroon Ali Shah was also suspended from practice that the notice has been served on Messrs Krishna & Co, Official Receiver for Haroon Ali Shah.
- [3] The matter came on for hearing in court today (25/08/14). There was no appearance for or by the plaintiff. Once a notice under Ord. 25, r.9 is issued, the parties must show cause why the action should not be struck out for want of prosecution or as an abuse of the process of the court.
- [4] The plaintiff has not taken any step to progress the matter after 14 August 2012. As a result the matter has just been lying in the Registry for about 1 year and 11 months.
- [5] The plaintiff did not file notice of intention to proceed either. Pursuant to Ord. 3, r.5 of the HCR, he should have filed such a notice after 6 months delay, if he had intention to proceed. Ord. 3, r. 5 provides:

'5. Where six months or more has elapsed since the last proceeding in a cause or matter, the party who desires to proceed must give to every other party not less than one month's notice of his intention to proceed.

A summons on which no order was made is not a proceeding for the purpose of this rule'.

[6] As there is no response to the notice, I struck out the matter for want of prosecution. I make no order as to cost.



At Lautoka

25/08/14

M H Mohamed Ajmeer

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M H Mohamed Ajmeer
Master of the High Court