

IN THE HIGH COURT OF FIJI
WESTERN DIVISION
AT LAUTOKA

CIVIL JURISDICTION

CIVIL ACTION NO. HBC 075 of 2013

BETWEEN : **SHIU KUMAR SINGH** of Martintar, Nadi.

PLAINTIFF

AND : **SESH PAL SINGH** of Martintar, Nadi.

DEFENDANT

AND : **THE CIVIL AVIATION AUTHORITY OF FIJI ISLANDS**
a limited liability company having its registered office at Nadi
Airport.

NOMINAL DEFENDANT

Mr. Mukesh Chand for the Plaintiff
Mr. Eroni Maopa for the Defendant
Mrs Arthi Bandhanna Swamy for the Nominal Defendant

Date of Hearing: - 12th November 2015

Date of Ruling :- 01st April 2016

Taxation of Costs

- (1) Before I proceed to the taxation of costs in this matter it appears prudent in the circumstances to provide a general outline of the background of the matter.
- (2) The action was filed on 03rd May 2013. The Plaintiff is a tenant of the **Nominal Defendant** since 22nd June 1984 over land known as Lot 26, on Deposited Plan 2157 part of Certificate of Title No: 11688 situated at Nadi.
- (3) The Plaintiff allowed the **Defendant** to occupy a portion of the said property which is less than one quarter acre for residential basis.

- (4) The Defendant after sometime refused to vacate the land. The Plaintiff has served Notices on the Defendant to vacate the land but he still occupies the land.
- (5) By Writ of Summons dated 03rd May 2013, the Plaintiff claims vacant possession of the land occupied by the Defendant, damages and costs.
- (6) On 30th September 2014, the Nominal Defendant filed an application by way of “Interlocutory Summons” pursuant to Order 18, rule 18 (1) (a) (b) and (d) of the High Court Rules, 1988, seeking that the action against it be struck out as it discloses no reasonable cause of action against the Nominal Defendant.
- (7) The Court upon reading the Interlocutory Summons to strike out the action and upon hearing the Counsel for the Plaintiff and the Nominal Defendant struck out the Statement of Claim and Writ of Summons against the Nominal Defendant with costs on a Solicitor indemnity basis since the pleading against the Nominal Defendant is scandalous, frivolous and vexatious.
- (8) Order 59, rule 1 confers the Master the power to exercise jurisdiction over matters conferred on the Deputy Registrar. This rule states:-

A “taxing officer” is interpreted under Order 62 as the Registrar or any officer for the time being authorized by the Chief Justice to as a taxing officer. This means that the Master now becomes a taxing officer for the purpose of Order 62.

(9) **Powers of Taxing Officers**

Order 62 rule 12 sub-rule 1 allowed the taxing officer to have power to tax:-

- (a) The costs of or arising out of any cause or matter in the High Court;
 - (b) The costs directed by an award made on a reference to arbitration under any Act or pursuant to an arbitration agreement to be paid; and
 - (c) Any other costs the taxation of which is directed by an order.
- (10) The taxation of the Nominal Defendant’s Bill of Costs is completed. The scale of costs available to the taxation officer to be used as a guideline was from **part (1) of Appendix (4) of the High Court Rules, 1988.**

**NOMINAL DEFENDANT'S BILL OF COSTS ON STANDARD BASIS
FOR TAXATION AGAINST THE PLAINTIFF**

| ITEM | PARTICULARS | SCALE OF COSTS APPEN - DIX 4 | COSTS | DISBURSE -MENT | AMOUNT ALLOWED BY TAXING OFFICER |
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| 1. | <i>Our attendance to receiving instructions from client together with the relevant documents including Statement of Claim, our Mr Singh's attendance to perusal of the document. doing legal research</i> | 40 | \$2,000.00 | | \$300.00 |
| 2. | <i>To preparing Acknowledgement of Service of Writ of Summons. Making copies and compiling for filing. Forwarding to our city agents in Lautoka for filing on 20/5/13. To receiving file copy of Acknowledgment of Service of Writ of Summons and arranging for service on Plaintiff and Defendant's solicitors</i> | 40 | \$250.00 | \$11.25 | \$45.00 |
| 3. | <i>To drafting and preparing legal opinion regarding the matter and forwarding to our client 28/5/13.</i> | 40 | \$300.00 | | \$100.00 |
| 4. | <i>To drafting Statement of Defence of Nominal Defendant.</i> | 7 | \$2,500.00 | \$56.25 | \$200.00 |

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| | <i>Forwarding to our client for verification. Finalizing the same. Printing and compiling document for filing. Attending to filing in Lautoka High Court.</i> | | | | |
| 5. | <i>Writing letter to client on 13/6/13 for update and enclosing stamped copy of Statement of Defence for their records.</i> | 40 | \$50.00 | | \$50.00 |
| 6. | <i>To receiving letter from M/s Pillai Naidu & Associates on 13/6/13 with enclosed Statement of Defence of the Defendant. To perusing the same and forwarding copy to our client. Taking note and updating file.</i> | 7 | \$300.00 | | \$200.00 |
| 7. | <i>To receiving Summons for Directions from M/s Pillai Naidu & Associates 1/8/13. Updating file and entering diary.</i> | 40 | \$300.00 | | \$50.00 |
| 8. | <i>Attending to Lautoka High Court on 14/8/13 when the matter was listed for first call under Summons for Directions, making appropriate representation and obtaining courts directions.</i> | 24 | \$50.00 | | \$75.00 |
| 9. | <i>Attending to Lautoka High Court on 11/9/13 when the matter was listed for</i> | 24 | \$50.00 | | \$75.00 |

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| | <i>mention and making appropriate representation, obtaining courts directions.</i> | | | | |
| 10. | <i>To receiving Order under Summons for Directions from M/S Pillai Naidu & Associates on 3/9/13 and taking note, updating file.</i> | 40 | \$300.00 | | \$45.00 |
| 11. | <i>To receiving Inter-Parte Notice of Motion and Affidavit of Shiu Kumar Singh from M/s Pillai Naidu & Associates issued on 28/8/13 and taking note, updating file and entering diary. To perusing the same.</i> | 40 | \$300.00 | | \$100.00 |
| 12. | <i>To receiving Summons to Strike out Action and Affidavit of Sesh Pal Singh filed on 5/9/13 from M/s Babu Singh & Associates, perusing the same and taking note, updating file.</i> | 40 | \$300.00 | | \$100.00 |
| 13. | <i>To receiving Affidavit in Reply of Shiu Kumar Singh (in response to Affidavit of Sesh Pal Singh) from M/s Pillai Naidu & Associates issued on 21/10/13 and taking note, updating file. To perusing the same.</i> | 40 | \$300.00 | | \$100.00 |
| 14. | <i>To receiving Supplementary Affidavit of Shiu Kumar Singh from M/s Pillai Naidu &</i> | 40 | \$300.00 | | \$100.00 |

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| | <i>Associates issued on 25/10/13 and taking note, updating file. To perusing the same.</i> | | | | |
| 15. | <i>To forwarding all documents to client for perusal and comments. To discussing with client. Taking note. Drafting and preparing Affidavit in Reply of Ajai Kumar in response of Defendants application to strike out. Forwarding to our client for verification and finalizing the same. Printing final copy, arranging with client for execution, photocopying and compiling for filing</i> | 24 (a) | \$500.00 | \$56.25 | \$150.00 |
| 16. | <i>Attending to Lautoka High Court for filing. Arranging for service on Plaintiff and Defendant's solicitors</i> | 40 | \$50.00 | | \$45.00 |
| 17. | <i>Attending to Lautoka High Court on 31/10/13 when the matter was listed for mention and making appropriate representation, to taking courts discretion</i> | 24 | \$50.00 | | \$75.00 |
| 18. | <i>Attending to Lautoka High Court on 19/11/13 when the matter was listed for mention and making appropriate representation, to taking courts direction</i> | 24 | \$50.00 | | \$75.00 |

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| 19. | <i>Attending to Lautoka High Court on 05/03/14 for Hearing and making appropriate application and presenting the case, obtaining courts direction.</i> | 24 | \$50.00 | | \$75.00 |
| 20. | <i>Attending to receiving issued copy of Submissions on behalf of the Plaintiff filed by the Plaintiff's Solicitor on 05/03/14. To updating file. Perusing the same.</i> | 40 | \$300.00 | | \$100.00 |
| 21. | <i>Attending to doing legal research, drafting Submission on behalf of the Nominal Defendant. To finalizing the same. Printing, photocopying, compiling and filling the same at Lautoka High Court. To organizing the same for service on 05/03/14 on Plaintiff and Defendant's solicitors.</i> | 19 | \$1,500.00 | | \$150.00 |
| 22. | <i>To writing letter to client on 14/3/14 and giving progress report.</i> | 40 | \$50.00 | | \$22.50 |
| 23. | <i>To receiving Defendant's submissions from M/s Babu Singh & Associates on 14/4/14, updating file and taking note, to perusing the same.</i> | 40 | \$300.00 | | \$100.00 |
| 24. | <i>Attending to doing legal research, drafting Nominal</i> | 19 | \$1,500.00 | | \$150.00 |

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| | <i>Defendant's Submission in Reply, to finalizing the same. Printing, photocopying, compiling and filing the same at Lautoka High Court on 24/4/14, to organizing the same for service on 25/4/14 on Plaintiff and Defendant's solicitors</i> | | | | |
| 25. | <i>Attending to Lautoka High Court on 06/05/14 when the matter was listed for Ruling and making appropriate representation, to obtaining courts directions (both Plaintiff's and Defendant's application dismissed.)</i> | 24 | \$50.00 | | \$75.00 |
| 26. | <i>Attending to receiving Affidavit Verifying list of Documents of the Plaintiff on 23/5/14. To updating file. Perusing the same and taking note.</i> | 40 | \$300.00 | | \$50.00 |
| 27. | <i>Attending to Lautoka High Court on 26/5/14 and making appropriate representation before the Master of High Court and obtaining courts directions.</i> | 24 | \$50.00 | | \$75.00 |
| 28. | <i>Attending to Lautoka High Court on 3/6/14 and making appropriate representation before the Master of</i> | 24 | \$50.00 | | \$75.00 |

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| | <i>High Court and obtaining courts directions</i> | | | | |
| 29. | <i>Attending to receiving Defendant's Affidavit Verifying List of Documents on 5/6/14. To updating file. Perusing the same and taking note.</i> | 24 | \$300.00 | | \$75.00 |
| 30. | <i>Attending to Lautoka High Court on 04/07/14 and making appropriate representation before the Master of high Court and obtaining courts directions.</i> | 24 | \$50.00 | | \$75.00 |
| 31. | <i>Writing letter to M/s Pillai Naidu & Associates on 4/7/14 requesting for Plaintiff's list of documents.</i> | 40 | \$50.00 | | \$22.50 |
| 32. | <i>Writing letter to M/s Babu Singh & Associates on 4/7/14 requesting for Defendant's list of documents</i> | 40 | \$50.00 | | \$22.50 |
| 33. | <i>Attending to receiving all documents mentioned in Defendant's list of documents from M/s Babu Singh & Associates on 7/7/14 to perusing the same and taking note.</i> | 40 | \$100.00 | | \$50 |
| 34. | <i>Writing letter to M/s Pillai Naidu & Associates on 7/7/14.</i> | 40 | \$50.00 | | \$22.50 |
| 35. | <i>Making arrangement with client and attending to uplifting</i> | 40 | \$150.00 | | \$100.00 |

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| | <i>file from its office. Perusal of files and assessing legalities.</i> | | | | |
| 36. | <i>To drafting Nominal Defendant's Affidavit Verifying List of Documents, attending to verifying all relevant documents and identifying relevant documents for discovery, attending to finalizing the same. To printing and compiling the Affidavit Verifying List of Documents, organizing the same for execution. Attending to filing the same with the Lautoka High Court on 10/7/14, and organizing for service on Plaintiff and Defendant's solicitors.</i> | 10 (a) | \$300.00 | | \$100.00 |
| 37. | <i>Writing letter to client and updating the progress on 15/7/14.</i> | 40 | \$50.00 | | \$22.50 |
| 38. | <i>To receiving letter from M/s Pillai Naidu & Associates on 16/7/14 and noting the same.</i> | 40 | \$50.00 | | \$22.50 |
| 39. | <i>Writing letter to M/s Pillai Naidu & Associates on 19/8/14.</i> | 40 | \$50.00 | | \$22.50 |
| 40. | <i>Attending to making copies (2 sets) of the Nominal Defendants documents listed in the Nominal Defendant's Affidavit Verifying List of documents and forwarding the</i> | 10 (a) | \$100.00 | | \$100.00 |

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| | <i>same to Plaintiff's and 1st Defendant's Solicitors.</i> | | | | |
| 41. | <i>Attending to receiving all documents mentioned in Plaintiff's list of documents from Plaintiff's solicitors to perusing the same and taking note.</i> | 40 | \$100.00 | | \$45.00 |
| 42. | <i>Attending to writing to Messrs Pillai Naidu & Associates vide our letter dated 19/08/14. To faxing and calling for confirmation. Attending to following up on our letter dated 07/07/14.</i> | 40 | \$50.00 | | \$22.50 |
| 43. | <i>Attending to writing letter to client dated 15/07/14 enclosing documents enumerated in Defendant's Affidavit Verifying List of Documents</i> | 40 | \$50.00 | | \$22.50 |
| 44. | <i>Attending to Lautoka High Court on 07/08/14 when the matter was listed for Mention and making appropriate representation before the Master of High Court and obtaining courts directions.</i> | 24 | \$50.00 | | \$75.00 |
| 45. | <i>Attending to Lautoka high Court on 21/08/14 when the matter was listed for Mention and making appropriate representation</i> | 24 | \$50.00 | | \$75.00 |

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| | <i>before the Master of High Court and obtaining courts directions.</i> | | | | |
| 46. | <i>Attending to receiving email from Messrs Pillai Naidu & Associates on 19/09/14 with enclosed Draft Pre-Trial Conference Minutes. Attending to taking note perusing the same.</i> | 40 | \$150.00 | | \$45.00 |
| 47. | <i>Attending to Lautoka High Court on 25/09/14 when the matter was listed for Mention and making appropriate representation before the Master of High Court and obtaining courts directions.</i> | 24 | \$50.00 | | \$75.00 |
| 48. | <i>Attending to perusal of file, drafting Interlocutory Summons to Strike out Action, attending to finalizing and filing the same with the Lautoka High Court on 30/9/2014, and organizing for service on both parties</i> | 24 (a) | \$300.00 | \$56.50 | \$100.00 |
| 49. | <i>Attending to writing to Messrs Pillai Naidu & Associates vide our letter dated 20/10/14 providing comments on draft PTC Minutes.</i> | 40 | \$150.00 | | \$62.50 |
| 50. | <i>Attending to receiving and perusal of letter from Messrs Pillai Naidu & Associates on 30/10/14 with</i> | 40 | \$150.00 | | \$45.00 |

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| | <i>enclosed Draft Pre-Trial Conference Minutes. Attending to taking note.</i> | | | | |
| 51. | <i>Attending to receiving and perusal of letter from Messrs Pillai Naidu & Associates on 12/01/15 with Amended Draft Pre-Trial Conference minutes. Attending to taking note.</i> | 40 | \$150.00 | | \$45.00 |
| 52. | <i>Attending to Lautoka High Court on 14/10/14 when the matter was listed for Mention and making appropriate representation before the Master of high Court and obtaining courts direction.</i> | 24 | \$50.00 | | \$75.00 |
| 53. | <i>Attending to Lautoka High Court on 24/10/14 when the matter was listed for First Call on our Interlocutory Summons to Strike Out Action and making appropriate representation before the Master of High Court and obtaining courts direction.</i> | 24 | \$50.00 | | \$75.00 |
| 54. | <i>Attending to Lautoka High Court on 18/11/14 when them matter was listed for mention to fix a Hearing date and making appropriate representation before the Master of high Court and to</i> | 24 | \$100.00 | | \$75.00 |

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| | <i>fixing a suitable hearing date.</i> | | | | |
| 55. | <i>To sending numerous emails to client for updates</i> | 40 | \$300.00 | | \$50.00 |
| 56. | <i>Attending to perusal of file, preparing the file for Hearing on 20/1/15, to attending to legal research, drafting Submissions, finalizing the same, compiling together with relevant case authorities and binding.</i> | 19 | \$1,500.00 | | \$150.00 |
| 57. | <i>Attending to receiving Plaintiff's Submission in Court on 20/01/15 and perusing the same. Attending to Lautoka High Court on 20/01/15 when the matter was listed for hearing. To appearing in court, presenting the case before the Master of high Court and obtaining courts directions.</i> | 40 24 | \$1,000.00 | | \$250.00 |
| 58. | <i>Attending to Lautoka High Court on 20/02/15 when the matter was listed for mention for delivery of ruling to making appropriate representation before the Master of High Court and obtaining ruling.</i> | 24 | \$50.00 | | \$75.00 |
| 59. | <i>Other incidentals herein inclusive of internet use, printing, photocopying, agency, courier,</i> | 40 | \$500.00 | | \$50.00 |

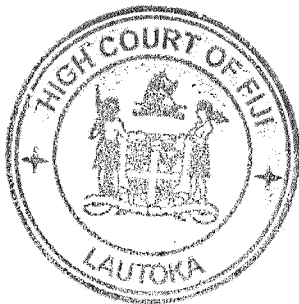
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| | <i>postage, telephone charge etc.</i> | | | | |
| 60. | <i>Filing fee for Bill of Taxation.</i> | 40 | \$57.50 | | \$50.00 |


(11) Certificate

I certify that the Nominal Defendant's Bill of Costs was taxed pursuant to **Order 62 of the High Court Rules.**

The taxed costs were calculated using the fees prescribed under **Part 1 of Appendix 4 of the High Court Rules.**

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| Costs taxed and allowed at: | \$3580.00 |
| Disbursements: | \$180.25 |
| Court Appearances: | <u>\$1,275.00</u> |
| Total: | <u>\$5,035.25</u> plus VAT |




 01/04/2016

Jude Nanayakkara
Master of the High Court

At Lautoka
 01st April 2016