

**IN THE HIGH COURT OF FIJI
(WESTERN DIVISION) AT LAUTOKA
CIVIL JURISDICTION**

CIVIL APPLICATION NO. HBJ 08 OF 2020

BETWEEN : **CRAIG AND EVETTE DE LA MARE**, Lot 5 Maui Bay Estates, Baravi
APPLICANTS

AND : **THE STATE**

AND : **MINISTER OF LOCAL GOVERNMENT** Urban Development Housing
and Environment, 3rd Floor, Fiji FA House, Gladstone Rd, Suva
1ST RESPONDENT

AND : **DIRECTOR OF TOWN AND COUNTRY PLANNING** 1st Floor, Fiji FA
House, Gladstone Rd, Suva
INTERESTED PARTY

APPEARANCES : Applicants in Person
Mr. Chauhan for the Respondents

DATE OF HEARING : 17th May, 2022

DATE OF DECISION : 14th July, 2022

RULING

1. This is an Application preferred by the Applicants hereof, namely, GRAIG and EVETTE DE LA MARE, on 02nd December, 2020 seeking leave to apply for judicial review, in order to move for reliefs, inter-alia, an Order of Mandamus directing the Honorable Minister of Local Government to make a written decision regarding the Applicants Appeal lodged with the Minister on the 15th of September 2015, within 7 days of the Order granted by the Honorable High Court.
2. Notice of opposition on behalf of the First Respondent being filed by the Hon. Attorney General on 04th December 2020, when the matter was mentioned for the first time on 09th December 2020 direction was given to file affidavit in opposition and the matter was fixed for **leave hearing** on 15th April 2021. However, on notice the matter being mentioned on 23rd March 2021(3 weeks in advance) , the Counsel for State intimated that a decision could be arrived at by the Minister before 15th April 2021 and the Court accordingly directed the matter to be **mentioned** on 15th April 2021.
3. Accordingly, when the matter had come up on 15th April 2021, counsel for the State had moved for further time stating that the Minister was to arrive at a decision within 7 days

and the Court had fixed the matter for hearing finally on 23rd April 2021 and specifically directed that the hearing fees need not be paid as the question of leave was to be decided on papers, instead of oral hearing.

4. However, the matter not being mentioned on 23rd April 2021 or on subsequent dates (ie. 17th May 2021 and 20th September 2021) due to non-functioning of the Court, when the matter was mentioned before me on 17th May 2022, Counsel for the Respondent informed that the matter can now be terminated as the Minister in charge has on 21st April 2021 made a decision dismissing the Applicant's appeal made to the Minister. Accordingly, the 1st named Applicant moved for costs on the ground that he has incurred expenses on account of filing of this Application and making preparations for the hearing.
5. On perusal of the record, I find that there was no necessity for the Applicants to incur costs on account of hearing, as the question of leave was to be decided on papers, as indicated by the then judge on 15th April 2021. Further it is observed that the Applicants have appeared in person from the day one.
6. However, since the Minister has now made a decision on the Applicant's Appeal, as per the intimation given to this Court by the Counsel for the State, and particularly since this Court has not granted any substantial reliefs to the Applicants, I am of the view that making orders for costs in their favor, against the State at this stage, is not warranted.
7. As the grievance of the Applicants has now been addressed, even before the matter is supported for leave, I see no reason to proceed with this Application. Accordingly, I make following orders.
 - I. The Application for leave to apply for judicial review is hereby dismissed.
 - II. The Applicant's Application for costs is refused.
 - III. Parties shall bear their own Costs.




A.M. Mohammed Mackie
Judge

At High Court Lautoka on this 14th day of July, 2022