

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

CIVIL ACTION NO.: HBC 217 of 2018

BETWEEN : SIMPLEX ELECTRIC CO. LIMITED
PLAINTIFF

AND : LINDA & CO.
DEFENDANT


APPEARANCES/REPRESENTATION

PLAINTIFF : Ms. S. Begum [Jiten Reddy Lawyers]
DEFENDANT : Mr. E. Kumar [Parshotam Lawyers]
RULING BY : Acting Master Ms Vandhana Lal
DELIVERED ON : 12 August 2022

RULING

1. This is the Plaintiff's application of 01st April 2019 seeking orders as follows:
 - (i) *That the Interlocutory Judgment be set aside,*
 - (ii) *That the Plaintiff seek to Amend it Writ of Summons which was filed on 24th July 2018;*
 - (iii) *That the cost of this application be cost in the cause*
 - (iv) *Any further Order that this Honorable Court may deem just and expedient.*
2. The Plaintiff has not cited any law pursuant to which this application is made but relies upon inherent jurisdiction of the court.
3. There is an affidavit in support filed which has been sworn by Sandeep Roy.

4. There is an affidavit in opposition filed not by the named Defendant Company “Linda & Co” but by “Linda & Company Limited.” Li Hua Liang has deposed the said affidavit sworn on 28th September 2020.
5. The Plaintiff filed a reply on 10th December 2020.
6. The Plaintiff’s solicitors have filed a motion to make the said application.
7. This was served on “Linda & Company Limited”.
8. Order 32 Rule 1 of the High Court Rules makes provision for mode of making application in chambers and states “application not made ex parte must be made by summons”.
9. This is a mandatory provision and the Plaintiff’s solicitors when question on the hearing date failed to rectify the defect.
10. Hence the application for now is dismissed for non-compliance of Order 32 Rule 1 of the High Court Rules.
11. No order for cost is made


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Vandhana Lal [Ms]
Acting Master
At Suva.



12 August 2022

TO:

1. **Suva High Court Civil Action No. HBC 217 of 2018;**
2. **Jiten Reddy Lawyers, Solicitors for the Plaintiff;**
3. **Parshotam Lawyers, Solicitors for the Defendant.**