

IN THE HIGH COURT OF FIJI AT SUVA
CENTRAL DIVISION
CIVIL (COMPANIES) JURISDICTION

HBE No. 17 of 2025

IN THE MATTER of an application for extension of time for winding up proceedings against **QUALITY FOODS (PTE) LIMITED**, a limited liability company having its registered office at Motorex Complex, Nadi Back Road, Nadi, Vitilevu, Fiji.

AND

IN THE MATTER of the companies act 2015

Counsel: Ms. Naicker, C for the Applicant

Date of Hearing: 5 December, 2025

Date of Judgment: 22 December, 2025

DECISION

(Extension of time to institute Winding Up Proceedings)

Introduction

1. The Applicant Creditor (referred to as the Applicant Creditor FMF Foods (Pte) Limited) is seeking to extend time for the Winding Up proceedings against the Debtor company Quality Foods (Pte) Limited.
2. The application was made before this court on 5 December, 2025 before the expiry of the 6 months.
3. The Applicant filed an application for extension of time together with an Affidavit in Support of Tejal Shania Singh on 05th December, 2025.

Law

3. **Section 528** of the *Companies Act, 2015* stipulates as follows;

- (1) An application for a company to be wound up in insolvency is to be determined within 6 months after it is made.
 - (2) The court may by order (or such conditions as it considers fit) extend the period within which an application must be determined, but only if –
 - (a) The court is satisfied that special circumstances justify the extension and
 - (b) The order is made within the period prescribed by subsection (1), or as past extended under this sub-section, as the case requires.
 - (3) An application is, because of this subsection, dismissed if it is not determined as required by this section.
4. In **Officetech (Fiji) Pte Fiji Limited -v- Impressive Prints Ltd** [2022] FJHC; HBE 008.2021 held that any application for leave to extend the period of winding up which was made after the expiry of the winding up period under **section 528** of the *Companies Act 2015* did not justify special circumstances to grant the extension was dismissed.
 5. In this matter the application for was made on 5th December, 2025 during the validity period as the six months will expire on 4 January, 2026.
 6. Furthermore, there must be exceptional circumstances for an extension of time to be granted.

Affidavit of Tejal Shania Singh dated 05th December, 2025

7. Ms. Singh states as follows;

- “(1) THAT on 7th of February 2025, the debtor company was indebted to the applicant for the amount of \$73,657.14 for payment of products supplied by the applicant which sum was then due and payable.
- (2) THAT on the above-mentioned date, the applicant served on the Debtor company a demand signed by the applicant requiring the company to pay the indebted amount. Annexed hereto and marked "TS-2" is a copy of the Demand.
- (3) THAT the Company failed for 3 weeks after service of the demand to pay the amount or to secure or compound for it to the reasonable satisfaction of the applicant.
- (4). THAT subsequently on 4th July 2025, the Applicant filed a Form D1 Application for Winding Up together with the Form.

- (5). D3 Affidavit Verifying application for Winding Up. Hereinafter referred to as the said applications. Annexed hereto and marked "TS 3" is a copy of the filed applications.
- (6) THAT the Form D3 was released to our office on the same date, 4th July 2025, the Form D1 was only released on 24th July 2025.
- (7) THAT the Form D1 when released contained a hearing date before Justice George set for 21st August 2025; however, the notice did not contain any compliance date before the Deputy Registrar (DR), which is a mandatory procedural requirement under Order 19 of the Companies (Winding Up) Rules 2015.
- (8) THAT both Form D1 and Form D3 were duly served on the Respondent at their registered office, and an Affidavit of Service was filed on 11th August 2025. Annexed hereto and marked "TS-4" is a copy of the Affidavit of Service.
- (9). THAT following service of the said applications, we proceeded to advertise the Form D4 Notice of Winding Up Application in the Gazette and Fiji Sun, strictly in accordance with Order 19 requirements. Hereinafter referred to as the said notice. Annexed hereto and marked "TS-5" is a copy of the said notice.
- (10). THAT after the advertisement on the 7th of August 2025, it was noticed that the D1 application did not have a date before the DR and this was at our earliest taken to the Suva High Court Registry for their attention.
- (11) THAT upon inquiry with the Registry, we were informed that the Form D1 Application had not been forwarded to the DR prior to being allocated a Judge's date, which is an oversight made by the Suva High Court Registry. *Hereinafter referred to as the Registry.*
- (12). THAT on the 14th of August 2025, a letter was again written to the registry requesting clarification on whether we are required to re-advertise, re-serve and re-file the Affidavit of Service and that this letter be urgently brought before the attention of the Honourable Judge. Annexed hereto and marked "TS-6" is a copy of the said letter.
- (13). THAT this oversight resulted in the Application not being listed before the DR in the first instance, and the date for 21st August was therefore procedurally defective.
- (14). THAT on the 20th August 2025 at approximately, 4.25 pm, upon contacting the Suva High Court Registry, we were advised that the D1 application is now ready

to be uplifted and the date before the DR is of 3rd September 2025. Annexed hereto and marked "TS-7" is a copy of the email correspondence.

- (15). THAT on the 21st of August 2025, we had written a letter to the Suva High Court Registry informing them that the date given before the Deputy Registrar is not suitable as it does not align with Rule 19 of the Winding up Rules. Annexed hereto and marked "TS-8" is a copy of the said letter.
- (16). THAT in accordance with the statutory requirements for winding up of a company, a minimum of 14 days' notice must be given through advertisement, that is the D4 application before a Compliance Certificate could be obtained.
- (17). THAT counting backwards from 3rd September 2025, the last permissible date to uplift and advertise was 20th August 2025.
- (18). THAT we were informed at the very end of 20th August 2025, thus, there was insufficient time to meet the 14-day notice period requirement.
- (19). THAT till date, we have not received any response from the Registry in relation to both our letters dated 14th August and 21st August 2025.
- (20). THAT following Registry clarification, the matter was eventually called before the Deputy Registrar on 3rd September 2025 for Compliance Certificate where the following issues were raised:
 - i. Difficulties with the Registry regarding the issuance of dates, particularly the need for multiple follow-ups to secure hearing dates.
 - ii. (Including not being given at date before the DR at the first place
 - iii. The fact that the advertisement published on 7th August contained a hearing date (21 August) that has now passed, leaving uncertainty about whether re-advertisement is required
 - iv. Concerns about additional costs that may be incurred due to re-advertisement and repeated procedural steps like costs that are not due to any fault on our part. I sought guidance on who should bear these costs.
- (21). THAT the Deputy Registrar provided the following guidance:
 - i. If the application contains a Rule 19 date, the current advertisement may suffice - however he prefers the Judge to direct on this

- ii. He is inclined to issue a partial certificate of compliance based on his assessment, but has referred the matter to the Judge for further directives regarding the issues we raised
 - iii. The matter has, been adjourned to 12th September 2025 for mention before the judge, who will provide advice and directions on the way forward.
 - iv. He also noted that we are within the 6-month timeframe, as the application was filed in July.
- (22). THAT further, the DR directed that we will await the Judge's directions of 12th September 2025 regarding:
- i. The need for re-advertisement.
 - ii. The filing of the affidavit verifying advertisement:
 - iii. Liability for any additional costs: and
 - iv. Any further compliance requirements.
- (23). THAT the matter was adjourned to 12th September 2025 for mention before the Honourable Justice George, however, Court did not sit, and the matter was adjourned to 7th November 2025.
- (24). THAT on 7th November 2025, when the matter was called before Justice George, all our issues pertaining to the said applications in the within matter was informed to her.
- (25). THAT the Honourable Judge Justice had advised that she will liaise with the DR on the issues brought to the Court.
- (26). THAT due to this oversight, multiple follow-ups were required by our office to obtain proper hearing dates and clarifications, resulting in considerable difficulty and delay not attributable to the Applicant. Annexed hereto and marked “**TS-9**” is a copy of all the email correspondences to the registry.
- (27). THAT the delays in this matter have not been caused by the Applicant or its counsel but have resulted from the Registry's oversight and subsequent adjournments.
- (28). THAT it is therefore just and in the interests of fairness that appropriate directions be issued to allow the winding up application to proceed, and that the Applicant not be penalised by way of additional costs or time loss.

(29). THAT the Applicant respectfully seeks that this Honourable Court exercise its inherent jurisdiction to grant an extension of time under Section 528, and to ensure that the said applications are able to proceed without further prejudice to the Applicant.”

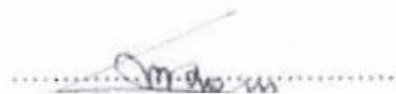
Analysis

8. After having read the Applicant’s affidavit, the Court note that the delay in this case is not caused by the Applicant. The Applicant has made several follow-ups with the Court Registry for a court date but did not receive a response.
9. The Applicant did justify special circumstances in order for this court to grant the extension of time.
10. Additionally, the application for extension of time was made before the expiry of the six months, which is 4 January, 2026.

Orders

11. Based on the above reasons, I order as follows;
 - (i) The Applicant’s Application for Extension of Time succeeds.
 - (ii) The Court grants an extension of six (6) months from 4th January, 2026 for the Applicant to complete all the necessary requirements.




Waleen M George
Acting Puisne Judge

Dated at Suva this 22nd day of December, 2025