

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

Civil Action No. **HBC 194 of 2016**

**Between** : **VIJAY PRASAD** of Lot 7, Melbourne Street, Verata, Nausori, Foreman.

**Plaintiff**

**And** : **KAIMBU ISLAND LIMITED** a company incorporated in British Virgin Islands, having its place of business registered at Howards Lawyers, Level 7, FNPF Place, Victoria Parade, Suva.

**First Defendant**

**And** : **PACIFIC PLUMBING SERVICES LIMITED** a company having its Registered Office at Lot 8 Clifton Road, Nasinu.

**Second Defendant**

**Representation:**

**Plaintiff:** Mr. D. Singh (Daniel Singh Lawyer)

**1<sup>st</sup> Defendant:** Mr. S. A Koya (Howards Lawyers)

**2<sup>nd</sup> Defendant:** Mr. M. F. Khalim (Patel Sharma Lawyers)

**Date of Hearing:** 26<sup>th</sup> January 2026.

**Ruling**

**A. Introduction**

[1] The First Defendant is seeking stay of execution pending determination of the appeal of the Judgment of Justice Amaratunga delivered on 9<sup>th</sup> April 2025. They rely on an affidavit filed by Robert Pearson Miller.

[2] The application is pursuant to Order 45 Rule 10 of the High Court Rules and Order 26 (3) of the Court of Appeal Rules.

[3] Justice Amaratunga found the 1<sup>st</sup> and 2<sup>nd</sup> Defendants jointly and severally liable for payment of \$214,800.00 as damages. The costs was summarily assessed at \$5000.00. This judgment is the subject of this stay application.

**B. Submissions**

[4] I have considered all affidavits and submissions filed by the parties.

**C. Determination**

- [5] I take note of the comments by Justice Prematilaka (RJA) *Veitala v Home Finance Company Pte Ltd (trading as HFC Bank) [2025] FJCA 71; ABU012.2023 (25 April 2025)*, that: “[t]he matters that should be considered by this Court in an application for stay pending appeal were discussed in *Natural Waters of Viti Ltd –v- Crystal Clear Mineral Water (Fiji) Ltd [2005] FJCA 13; ABU 11 of 2004 [18 March 2005]*. It is of course not always necessary to consider all seven matters as their relevance will often depend upon the nature of the proceedings and the orders made by the court below. A stay should not be granted unless the Court is satisfied that there are good reasons for doing so. Whether there are good reasons established will be determined by reference to the principles set out by this Court in the *Natural Waters of Fiji*.”
- [6] The Plaintiff has not rebutted or addressed the submission for the 1<sup>st</sup> Defendant that the Plaintiff resides outside Fiji and that a successful appeal would offer no realistic prospect of recovering damages already paid to the Plaintiff.
- [7] An appeal was expeditiously filed. The grounds of appeal need to be ventilated and dealt by the Court of Appeal. My perusal of the grounds shows that the grounds are serious and raises questions of statutory interpretation, factual error and contractual responsibility. These are issues which the Appellate Court needs to determine.
- [8] I have also considered the right of the Plaintiff as a successful party in the High Court. He has the right to enjoy the fruits of the judgment and the need to preserve the position of all parties in case the appeal is successful.
- [9] Having considered everything I am of the view that stay of execution pending determination of the appeal of the Judgment of Justice Amaratunga delivered on 9<sup>th</sup> April 2025 be granted.

**D. Court Orders**

- [10] Stay of execution of the judgment of Justice Amaratunga delivered on 9<sup>th</sup> April 2025.



A handwritten signature in blue ink, appearing to read "A Lakshman", written over a dotted line.

Hon. Justice C.S.C. A Lakshman  
Puisne Judge

20<sup>th</sup> February 2026