

**IN THE MAGISTRATES COURT AT NADI  
CIVIL JURISDICTION**

**Civil Case No. 63 of 2024**

**BETWEEN : CREDIT CORPORATION (FIJI) PTE LIMITED**

**Plaintiff**

**AND : FILIPE BATIWALE & KATARINA TINAI**

**Defendants**

**RULING**

The court has considered the affidavits of service filed on:

- 25 February 2025 for the First Defendant; and
- 27 February 2025 for the Second Defendant.

It is noted that the Writ of Summons was filed on 16 June 2024.

**Service on First Defendant:**

With respect to the First Defendant, service was effected by way of substituted service through publication in the newspaper on 8 January 2025. However, no application was made prior to 9 December 2024, that is, not less than 7 days before the expiry of the initial 6-month period as required under Order 7 Rule 17(2) seeking renewal of the Writ. As a result, the Writ had lapsed as of 16 December 2024. The subsequent attempt to serve the Writ by substituted means on 8 January 2025 was made when the Writ was already of no effect.

**Service on Second Defendant:**

Turning to the Second Defendant, the court notes that service was purportedly effected by email on 26 July 2024. However, there is no direction of the court authorising this mode of service. Order 7 Rule 3 requires personal service unless the court otherwise directs. The affidavit filed in February 2025 merely records that the Writ was emailed to an address without an accompanying application for substituted or alternative service. In the absence of a prior order permitting such service, the court finds that there has been no valid service on the Second Defendant.

Under **Order 7 Rule 17 (1) of the Magistrates Court Rules** states as follows:

***“Every writ of summons and every judgement summons shall be served within 6 months from the date of issue thereof and if not served within such period shall thereafter be of no effect unless renewed as hereinafter provided.”***

Subrule 2 states that :

***“The court may if it thinks fit, on application made by the plaintiff not less than 7 days before expiry of the said period of 6 months on ex parte notice of motion, supported by an affidavit showing the reason why service has not been effected, renew any such writ of summons or judgment summons for one further period of 6 months. Any writ of summons or judgment summons so renewed and not served within such extended time shall thereafter be of no effect.”***

Accordingly, the court finds that:

1. The service on the First Defendant on 8 January 2025 is of no legal effect, the Writ having expired on 16 December 2024 and no application having been made to renew it in accordance with Order 7 Rule 17(2).
2. The service on the Second Defendant is not recognised as valid, as it does not comply with Order 7 Rule 3 and no leave was granted for substituted or alternative service by email.

The Writ of Summons is accordingly of no effect in relation to both Defendants. This case is accordingly struck out for want of valid service. The Plaintiff is at liberty to refile a fresh Writ of Summons.

Any party aggrieved by this decision has the right to appeal within one month under Order 37 Rule 3 of the Magistrates Court Rules 1945.



Setavana Saumatua  
**Resident Magistrate**  
13 June, 2025.

