

IN THE SUPREME COURT OF FIJI

APPELLATE JURISDICTION

CIVIL PETITION NO. CBV 004 OF 2021

[Court of Appeal No. ABU 012 of 2014]

[High Court Civil Action No. 23 of 2010]

BETWEEN : **SARIMUN NISHA** of Bocalevu, Labasa, Domestic Duties.

PETITIONER/APPELLANT

AND : **MOHAMMED HASSAN** of Kawakawa, Waiqele, Labasa,
Businessman

RESPONDENT

Coram : **Chief Justice Salesi Temo**
President of the Supreme Court

Counsels : **Mr. A. Chand for the Petitioner/Appellant.**
: **Mr. Y. Kumar for all Respondent.**

Date of Hearing : 23 August 2024

Date of Ruling : 27 June, 2025

RULING

1. On 14 June 2021, the petitioner filed a petition in the Supreme Court seeking leave to file an appeal under section 98 of the Constitution against the judgment of the Fiji Court of Appeal delivered on 30 April 2021.

2. An affidavit of verification was filed in court by the petitioner herself on 14 June 2021.
3. The matter came before me on 12 May 2023, and Ms. S. Narayan, counsel for the respondent said, the respondent had passed away and the probate issue had not been sorted out. This problem persisted until 23 August 2024.
4. On 23 August 2024, Mr. Y. Kumar for the respondent asked for the petitioner's petition to the Supreme Court to be struck out for the following reasons. He said, on most occasions, the petitioner had failed to turn up in court, that is, on 12 May 2023, 8 December 2023, 20 May 2024 and 23 August 2024. He said, the petitioner had lost interest in the case and there was no reason to keep the case alive in court.
5. Secondly, the petitioner filed the action in the High Court in 2010, and the High Court gave judgement on 24 January 2014, that is, dismissing the Petitioner's claim. The Petitioner then went to the Court of Appeal appealing the High Court's decision. On 30 April 2021, the Court of Appeal dismissed the Petitioner's appeal and affirmed the High Court's decision. The Petitioner now, according to Mr. Kumar, wants to overturn the Court of Appeal's decision in the Supreme Court.
6. Mr. Kumar said, the respondent was the Petitioner's father. The petitioner was his daughter. Mr. Kumar submitted the petitioner had not settled the probate matter and she was not attending the court. He also submitted that the proposed grounds of appeal were not meritorious and does not satisfy the section 7 (3) of the Supreme Court Act threshold.
7. Mr. Kumar submitted that the petitioner was prolonging the proceeding by not attending court. The case started in 2010. It is now 2025. Fifteen years had passed with no resolution of the matter in sight. The respondent's right to trial within a reasonable time within the requirements of section 15 (3) of the 2013 Constitution, appeared to have been violated. He asked for the petition to be dismissed and/or put off the Court's list, until the petitioner was serious with the matter.

8. The Court accepts Mr. Kumar's above submissions and dismisses the petitioner's petition. The petitioner can re-lodge her application with leave once she fully complies with the rules of the Supreme Court.



A handwritten signature in black ink, appearing to be "Salesi Temo", written in a cursive style.

Salesi Temo
Chief Justice

Solicitor for the Petitioner : A K Singh Law, Labasa
Solicitor for the Respondent : Jiten Reddy Layers, Suva