

**ERIC DICK AND ALICK DENNIE (As Representatives of the Gerasi Tribal Members residing on Ranogga) – V- NORTH NEW GEORGIA TIMBER CORPORATION AND OTHERS**

HIGH COURT OF SOLOMON ISLANDS  
F.O. KABUI

Civil Case No. 313 of 1995

Date of Hearing: 11<sup>th</sup> March 2003

Date of Judgment: 11<sup>th</sup> March 2003

*No Appearance for the Plaintiff*

*Mr T. Kama for the 1<sup>st</sup> Defendant*

*Mr J. Apaniai for the 2<sup>nd</sup> to 10<sup>th</sup> Defendants*

**JUDGMENT**

**KABUI, J:** This is an application by the 2<sup>nd</sup> to the 10<sup>th</sup> Defendants by Summons dated 10<sup>th</sup> February 2003 seeking the following orders-

- (1) That the Writ of Summons and the statement of claim filed herein by the Plaintiffs on the 13<sup>th</sup> October 1995 be struck out under Order 27 Rule 4 on the grounds that the claim is frivolous and vexatious and is otherwise an abuse of the court process in that the Plaintiffs have no standing to bring the action.
- (2) Upon granting order [1] above, that the interim orders dated 18<sup>th</sup> October 1995 and 30<sup>th</sup> November 1995 and any other orders made herein restraining the withdrawal of funds by the Defendants from Gerasi Tribe Account No. 01-208488460-16 with the National Bank of Solomon Islands be discharged forthwith.
- (3) That the Plaintiffs pay the Defendants' costs of and in connection with this application and this action.
- (4) Such further or other orders as the court deems meet.

Counsel for the Plaintiffs nor any of their representatives was in Court at the hearing of this application. Service having been proved by affidavit of service, I gave leave for the 2<sup>nd</sup> to 10<sup>th</sup> Defendants to proceed in the absence of the Plaintiffs and their Counsel, Mr Nori.

### **Brief Background**

The facts were set out in my judgment delivered on 26<sup>th</sup> June 2002 in this same case. I need not repeat them here except to say that the High Court had dismissed the Plaintiffs' appeal on 7<sup>th</sup> February 2003.

### **The effect of the dismissal of the appeal**

The Roviana Local Court in its decision dated 17<sup>th</sup> March 1999 ruled that the Plaintiffs were not members of the Gerasi tribe and so were not entitled to receive royalties from Gerasi land. The Plaintiffs appealed that decision. In its decision dated 12<sup>th</sup> October 2001, the Western Customary Land Appeal Court affirmed the decision of the Roviana Local Court. The Plaintiffs again appealed to the High Court. The High Court struck out that appeal on 7<sup>th</sup> February 2003 on the ground that the Plaintiffs had failed to pay into court the sum of \$5,000.00 as security for costs and the sum of \$750.00 as expenses. The effect is therefore that the Plaintiffs are not members of the Gerasi tribe and so do not have any standing to file the Writ of Summons and Statement of Claim as they did on 13<sup>th</sup> December 1995. Their having done so is therefore frivolous and vexatious. I grant the application in the terms sought in the Summons. The Plaintiffs will pay the cost of the application. I order accordingly.

F.O. KABUI  
JUDGE