

**IN THE SUPREME COURT  
OF THE REPUBLIC OF VANUATU**  
*(Civil Jurisdiction)*

**Civil  
Case No. 12/9 SC/CIVL**

**BETWEEN: BEN TUNALA TOASERKIT**  
*Claimant*

**AND: REPUBLIC OF VANUATU**  
*First Defendant*

**AND: FAMILY BOETARA**  
*Second Defendant*

**AND: ZEBEDEE TARVUI**  
*Third Defendant*

**Before:** *Justice Saksak*

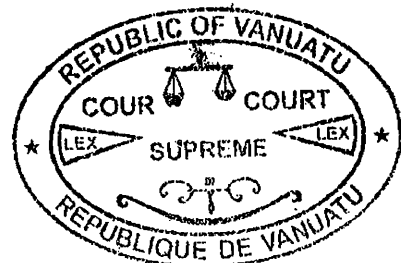
**Counsel:** *No appearance by Claimant/Applicant (Colin Leo)  
Lennon Huri for First Defendant;  
Felix Laumae for Second and Third Defendants*

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## **DECISION**

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1. Mr Leo filed an application for leave to file an appeal out of time on 22 July 2014.
2. On 8<sup>th</sup> September 2014 the Court granted leave and ordered the appellant to file his appeal within 14 days. Whether or not the applicant has complied with the order is not able to be ascertain because Mr Leo is not available today.
3. Mr Laumae and Mr Huri have asked the Court to dismiss the application on grounds that:
  - (a) It is an abuse of process;



- (b) The applicant has not standing;
- (c) The appeal is well out of time.

4. My first inclinations as indicated to Counsel was to dismiss the application. However having discovered that the application was heard on 8<sup>th</sup> September 2014 and leave was granted, it is therefore not proper to now dismiss the application. Instead as I see it, the matter has now come to its end as far as the case stands in the Supreme Court. There is therefore no longer any live issues in this matter.
5. The best course of action is to order that this File be closed and put away. There will be no order as to costs.

**DATED at Port Vila this 1<sup>st</sup> day of July, 2016.**

**BY THE COURT**

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**OLIVER A. SAKSAK**  
**Judge**

