

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

Constitutional  
Case No. 01/56 SC/CIVL

BETWEEN: HARRY VANVA, LESLEY, TARI HAM JAPETH,  
AVOCK JACK, JEAN DELAEVEAU, JOE  
NARUA, ROY BONG, SAM NATHANA, GEORGE  
TABIMAI, KALMER VOCOR, ANTOINE  
PIKIOUNE, LULU VATU AND MAHLON  
NELSON

Applicants

AND: MINISTER OF INTERNAL AFFAIRS

First Respondent

AND: LUGANVILLE MUNICIPALITY

Second Respondent

*Coram:* Justice Oliver A. Saksak

*Counsel:* Mary Grace Nari for the Claimants  
Christine Lahua for the Defendants

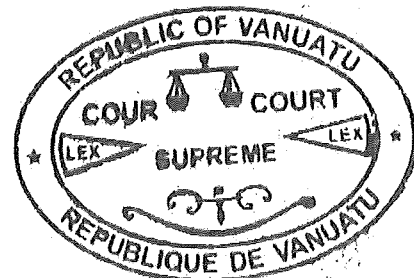
*Date of Hearing:* 18<sup>th</sup> October 2019

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## RULING

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1. The late Saling Stephens filed an amended constitutional application on 13<sup>th</sup> May 2019 after seeking and obtaining leave on 26 April 2019.
2. The State Law Office filed a response to the application on 26 June 2019. In short the defendants say the application is misconceived and should be struck out. They filed an application to strike out the application on the same date.
3. The defendants filed sworn statements of Martin Tete and Leith Veremaito in support of their application on 2<sup>nd</sup> October 2019 and 16 October 2019. They filed written submissions on 18<sup>th</sup> October 2019.
4. The application was adjourned and fixed for hearing today. At the hearing Mrs Nari first objected to the application but upon hearing Ms Lahua's submission, Mrs Nari conceded to the application that the Constitutional application be struck out.
5. Ms Lahua claimed for costs.



6. On the basis of Mrs Nari's concession the Constitutional application filed by Mr Stephens on 13<sup>th</sup> May 2019 is hereby struck out.
7. Although Ms Lahua seeks an order for costs, this is declined. The Court of Appeal on 1 November 2002 extended time to 15<sup>th</sup> November 2002 for the Minister and Commissioner to appeal against the judgments of 11 February 2002 and of 12 June 2002. This did not occur. As such the State was bound by the Court orders to pay the Claimants the sum of VT 2, 528,720 as Ordered by the Court on 12 June 2002. They did not do so, giving rise to the petitioners filing the Constitutional application many years later but simply to provoke the action of the State. It is for this reason that costs is disallowed by the Court.
8. The position of the parties now is that the Orders of the Court dated 11 February 2002 and 12 June 2002 are still alive. The proper course is for the Claimants / Judgment Creditors to apply to the Master for enforcement of those orders. They could apply for their costs to be taxed and for the enforcement of the order of 12 June 2002.
9. Accordingly I Order that the Constitutional application filed by the claimants on 13 May 2019 be and is hereby struck out. There is no order as to costs. The claimants will apply to the Master for taxation of their costs as ordered on 11 February 2002 and for the enforcement of the judgment of 12 June 2002. These applications should be filed and served within 14 days from the date of this order.
10. The current position in this Court is that this case is deemed complete and the file is to be closed.

DATED at Port Vila this 18<sup>th</sup> day of October, 2019

BY THE COURT



OLIVER. A.SAKSAK

Judge

