

IN THE COURT OF APPEAL, FIJI ISLANDS
AT SUVA

CIVIL APPEAL NO. ABU0035 OF 2008S
(High Court Civil Action No. 357 of 2007S)

BETWEEN: **SILVER BEACH PROPERTIES LIMITED**

Appellant/Applicant

AND: **SAIJAD JAWAN as SAIJAD KHAN**

Respondent

In Court: **The Hon Justice Randall Powell, Justice of Appeal**

Hearing: **Wednesday, 1st April 2009, Suva**

Counsel: **D. Sharma for the Appellant**
T. Fa for the Respondent

Date of Ruling: **Wednesday, 1st April 2009, Suva**

RULING

[1] On 26 January 2009 Silver Beach Properties Limited (Silver Beach) filed a Notice of Motion dated 21 January 2009 filed 23 January 2009 seeking orders that it be granted leave to issue an order for Criminal Contempt of Court against the respondent Saijad Jawan aka Saiyad Khan aka Saijad J Khan (Mr Khan) and restraining him from dealing with or disposing of motor vehicle registration EJ710 (the vehicle).

- [2] On 17 June 2008 the High Court (Byrne J) made ex parte orders (the injunction) enjoining Mr Khan from dealing with land, moneys and ten motor vehicles (the motor vehicles). The orders were served on him on 19 June 2008.
- [3] The motor vehicles were identified by registration numbers.
- [4] On 30 September 2008 Byrne J conducted an inter partes hearing at which Mr Khan was represented by counsel and at which Mr Khan, pursuant to a Notice of Motion, sought orders challenging parts of the injunction. Byrne J reserved his decision.
- [5] According to the affidavit of Mr Robert Uma Sen sworn 21 January 2009, Mr Khan changed the registration number on one of the motor vehicles, being a motor vehicle with a personalised number plate, to EJ710.
- [6] On 26 January 2008 Byrne J handed down his decision and ordered that Mr Khan be given leave to withdraw \$65,000 from the \$212,000 held in a Westpac account. No orders were made in relation to the vehicles or the vehicle.
- [7] If the matters deposed to in the affidavit of Mr Sen are established then Mr Khan may have committed a contempt of Court. However Mr Khan should be given an opportunity to explain his actions and in light of that explanation the applicant can decide whether or not to proceed with its leave application.
- [8] The orders of the Court are:

1. That Mr Khan, his servants, agents and solicitors be restrained from transferring, disposing, dealing, charging, assigning or disposing of motor vehicle registration number EJ710 until final determination of the proceedings.
2. That Mr Khan file and serve an affidavit addressing his conduct in relation to the said vehicle on or before 22 April 2009.
3. That Silver Beach file and serve any affidavit in reply on or before 29 April 2009.
4. The Notice of Motion filed 23 January 2009 is otherwise adjourned to 4 May 2009.
5. Costs of today are to be costs in the cause.

Randall Powell
Justice of Appeal

Solicitors:

Suresh Maharaj and Associates, Lautoka for the Appellant
Fa and Associates, Suva for the Respondent