

**IN THE INDEPENDENT
LEGAL SERVICES COMMISSION**

NO. 005 OF 2012

BETWEEN :

VIMOTAAD'S INVESTMENT (FIJI) LIMITED
Applicant

AND :

FAIYAZ SIDDIQ KOYA t/a KOYAS
Respondent

Applicant : Mr. T Muloilagi for the Applicant

Respondent : In Person

Dates of Hearing : 21st September and 5th October 2012

Date of Judgment : 12th October 2012

JUDGMENT

1. The Applicant in 2009 and 2010 was the city agent of the Respondent's law firm, providing normal agency activities such as searches, settlements, filing in courts etc. For this work the company rendered invoices which were not paid. Disputes arose between the two parties and eventually after complaining to FICAC, then this Commission, a letter was written to the Chief Registrar on 15th of August 2012 asking to have action taken against Mr. Koya for nonpayment.
2. After considerable correspondence between the parties and the Chief Registrar, the Registrar finally wrote to the complainant on 21st of March 2011 dismissing the complaint for lack of jurisdiction. In so dismissing it she reminded the complainant of his right under section 110(4) to take the complaint directly to this Commission.
3. And so the complainant did, filing complaint with this Commission on the 10th of September 2012. The Secretary of the Commission listed the matter for first call on the 21st of September 2012 when both parties (the Respondent travelling from Nadi) appeared before me.
4. At the initial hearing I reminded the Applicant of the Commission's role vis a vis the profession in that it will discipline a practitioner for unsatisfactory conduct or misconduct in his or her professional life. It was stressed that the Commission does not act as an agency to mediate in financial disputes nor to collect amounts claimed to be owing. That is a function of the Civil Courts. Time was given to the Applicant to consider its position to make submissions as to why costs should not be awarded against the company.

5. Counsel for the Applicant appeared before the Commission on the 5th of October conceding that the Commission had no jurisdiction in the matter and informing the Commission that proceedings were about to be issued in the Civil Courts for amounts claimed to be owing.

6. By the terms of section 124 of the Legal Practitioners Decree 2009 the Commission has the right to award costs against any practitioners or law firm "as it thinks fit". As wide as that power may be, the Commission is of the view that it clearly envisages the award of costs against a party or parties it has investigated on an application by the Chief Registrar and does not extend to parties or counsel for parties bringing frivolous applications before the Commission.

7. This application by Vimotaad is frivolous and vexatious and is dismissed forthwith. It may be that the Decree may need to be amended to provide for the award of costs in a situation such as this, but at the moment there being no power to do so, the Commission does not make any order for costs.

**JUSTICE PAUL MADIGAN
COMMISSIONER**

12 OCTOBER 2012