

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

**Civil
Case No. 16/3174 SC/CIVL**

BETWEEN: JOE LIGO

Claimant/Applicant

AND: THE REPUBLIC OF VANUATU

Defendant/Respondent

Date of Hearing of Application: 15th day of November, 2023 at 8:00 AM
Before: Hon. Acting Chief Justice Oliver A. Saksak
In Attendance: Paul Jerry Boe for the Claimant/Applicant
Tom Loughman for the Defendant/Respondent (via telephone)

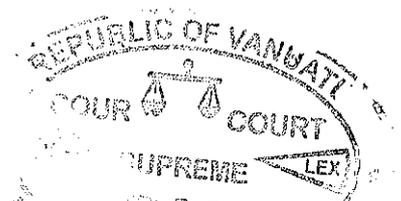
DECISION

Introduction

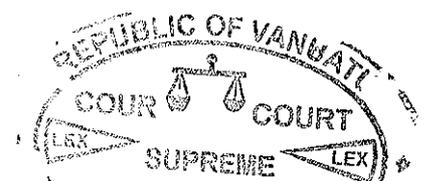
1. Today upon hearing Mr Boe and Mr Loughman in relation to an application seeking Orders directing that the case be settled out of Court by the parties, I allowed the application.
2. Following are the reasons for my decision.

Background

3. It is necessary to understand the background of the case.
4. The applicant filed his Supreme Court claim on 20 September 2016 seeking damages against the defendant for defamation.
5. Over the years the case has been managed by the learned Chief Justice to a trial hearing. Judgement has been reserved and following the long delay, the Claimant filed an application on 23 June 2023 seeking a transfer of the case to another Judge for hearing. The application was not processed until the Claimant wrote to the Registrar on 30 October 2023 making his urgent plea for justice. The Registrar brought the letter to my attention and I instructed that a notice be issued for the hearing of the application. Due notice was issued on 10 November 2023 returnable today (15/11/23) at 8.00am.



6. At the hearing in Chambers, I heard Mr Loughman via the telephone. He opposed the application arguing it was an abuse of process when there has been a trial hearing and judgment is awaited.
7. Mr Boe responded expressing concerns at the delay in issuing a judgment which is having prejudicial effect on the applicant not able to find employment thus causing financial hardships for him and his family over the years.
8. During the course of the hearing, it became clear that the purpose of the application is not to transfer the proceeding out of the learned Chief Justice's docket. The purpose is simply to hear this application which essentially seeks leave of the Court to enable the parties to engage in negotiation towards a possible settlement out of Court, whilst awaiting judgment. With that explanation, Mr Loughman then agreed.
9. Mr Boe relied on the sworn statement of Mr Ligo filed on 23 June 2023 in support of the application where the applicant annexes certain important documents lying the foundation or settlement of the claim out of Court.
10. In particular, references were made to the letter of 6 August 2013 by the then Prime Minister, the late Edward Nipake Natapei as "JL2" and the letter dated 11 January 2016 by the then Minister of Lands to the State Law Office as "JL3" with a clear instruction at the conclusion of the lengthy letter to....." find a way to settle the VT40 million damages claim"
11. That is the basis for the application by Mr Ligo.
12. I am satisfied in the circumstances of the case that; the application is properly made and it is accordingly allowed.
13. While the case is pending the judgment of the learned Chief Justice, the Claimant is entitled to pursue settlement out of Court independently.
14. Rule 9.7 of the Civil Procedure Rules provides for offers of settlement as a possible avenue.
15. Any settlement out of Court would then be the basis of a judgment by the Court or a discontinuance pursuant to Rule 9.9, bringing the proceeding to its end.
16. Accordingly, I allow the application. Whilst the claim is awaiting the judgment of the Court, leave is hereby granted to the claimant and agents of the defendant to engage in negotiations based on the documents referred, to reach possible settlement of the claimant's claim.



17. In the event settlement is not reached within a period of 30 days from the date hereof, the parties may send a memorandum to the Court to advise the Registrar accordingly.

DATED at Port Vila this 15th day of November, 2023.

BY THE COURT



Oliver Saksak

Hon. Acting Chief Justice

