

**IN THE HIGH COURT OF NEW ZEALAND
AUCKLAND REGISTRY**

**CIV-2013-404-004550
[2014] NZHC 2338**

BETWEEN LLEWELLYN WILLIAM BURCHELL
 and JOAN ROSLYN BURCHELL
 Plaintiffs

AND SUKHMINDER SINGH
 Defendant

Hearing: 26 September 2014
 [On the Papers]

Appearances: L W Burchell (Self-represented Plaintiff) in Person
 J A McBride for the Defendant

Judgment: 26 September 2014

**JUDGMENT OF DUFFY J
[Re Costs]**

This judgment was delivered by Justice Duffy
on 26 September 2014 at 11.00 am, pursuant to
r 11.5 of the High Court Rules

Registrar/Deputy Registrar
Date:

Counsel: J A McBride, Auckland

Solicitors: BSA Law (P H Blank), Auckland

Copy To: L W Burchell, Auckland

[1] I refer to my Minute (No 3) of 29 August 2014 (see *Burchell v Singh* HC Auckland CIV-2013-404-004550). In that Minute, I set out the process for dealing with the defendant's application for costs.

[2] At [3], I referred to the general principle that costs follow the event, that the defendant was successful, and that he seeks no more than ordinary scale costs at category 2B.

[3] At [4], I stated there was nothing unusual about the case and that it was difficult to see what the plaintiffs could say in order to avoid an award of costs against them. However, I gave the plaintiffs the opportunity to file submissions on the question of costs. I noted that if no such memorandum was filed, it would necessarily follow that the defendant was entitled to costs and disbursements, and an order to that effect should accordingly, be sealed.

[4] I also noted that if the plaintiffs did file a memorandum opposing an award of costs, I would consider the arguments and then issue a decision.

[5] The plaintiffs have now filed a memorandum, dated 10 September 2014, opposing an award of costs to the defendant. I have read the memorandum carefully. In my view, the memorandum does not raise a tenable opposition to an award of costs to the defendant. The memorandum essentially attempts to re-litigate the substantial issues in the interlocutory application, which were determined in my judgment: see *Burchell v Singh* [2014] NZHC 1353.

[6] The plaintiffs allege that they were not given a copy of my judgment, despite the Registry advising me a copy was provided to them. They complain about not being provided with a copy of the transcript from the hearings on which the substantial decision was delivered. None of those arguments are relevant to an award of costs to the defendant.

[7] Insofar as the plaintiffs complain about the way the interlocutory application before me was conducted, those arguments are relevant to any challenge they might

make against the substantial decision. They are not relevant to them opposing an award of costs.

[8] As noted in my Minute (No 3), the defendant was successful. The general principle is that costs follow the event. Here, the defendant seeks no more than costs at category 2B, plus reasonable disbursements.

[9] Having read and carefully considered the plaintiffs' written opposition to an award of costs, I am satisfied that the defendant is entitled to the costs that he seeks.

Result

[10] The defendant is entitled to category 2B costs in the sum of \$11,343.00 and reasonable disbursements of \$564.20, the sum in total being \$11,907.20.

Duffy J