

Reference No. HRRT 056/2016

UNDER THE HUMAN RIGHTS ACT 1993

BETWEEN MARIA SULTANA NISHA

PLAINTIFF

AND HA & C LIMITED, TRADING AS DOLLAR STAR

FIRST DEFENDANT

AND SHUN BOK JO

SECOND DEFENDANT

AT WELLINGTON

BEFORE:

Mr RPG Haines QC, Chairperson  
Dr SJ Hickey MNZM, Member  
Mr RK Musuku, Member

REPRESENTATION:

Mr C Tuck for plaintiff  
Ms J Sharmam for defendants

DATE OF HEARING: Heard on the papers

DATE OF DECISION: 21 February 2018

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**DECISION OF TRIBUNAL STRIKING OUT STATEMENT OF CLAIM<sup>1</sup>**

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**Background**

[1] In proceedings filed on 12 September 2016 the plaintiff alleges she was discriminated against in the employment context on the grounds of her religious beliefs, race and ethnic or national origins. Damages of \$45,000 are sought.

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<sup>1</sup> [This decision is to be cited as *Nisha v Ha & C Ltd (Strike-Out Application)* [2018] NZHRRT 3]

[2] By memorandum dated 19 December 2017 Mr Tuck, counsel for the plaintiff, has notified the Tribunal he has encountered ongoing difficulty in contacting the plaintiff who, he says, appears to have left the country. Consequently, not being properly instructed, Mr Tuck seeks leave to withdraw.

### **Discussion**

[3] In the circumstances outlined by Mr Tuck it is necessary that these proceedings be dismissed as there is no realistic prospect that the plaintiff has any serious intention of prosecuting them with diligence at any time in the near future. To allow the proceedings to continue would be vexatious.

[4] Leave is granted to Mr Tuck to withdraw.

### **ORDERS**

[5] The following orders are made:

[5.1] The statement of claim filed on 12 September 2016 is struck out.

[5.2] Mr Tuck is given leave to withdraw.

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**Mr RPG Haines QC**  
Chairperson

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**Dr SJ Hickey MNZM**  
Member

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**Mr RK Musuku**  
Member