

IN THE HIGH COURT OF THE SUPREME COURT OF JUDICATURE  
(CIVIL JURISDICTION)

BETWEEN:

VISHNU ARJUNE

Plaintiff

-and-

1. R. SUKRAJ

2. R. SUKRAJ trading under the name and  
style R. SUKRAJ AND DAUGHTERS

3. R. SUKRAJ AND DAUGHTERS

Defendants

The Honourable Justice Navindra A. Singh, Puisne Judge

Mr. Rodwell Jugmohan/ Mr. Murseline Bacchus for the Plaintiff

Mr. Ryan Crawford for the Defendants

**Heard December 8<sup>th</sup> and 14<sup>th</sup> 2016 and January 19<sup>th</sup> 2017**

RULING

The undisputed precursory facts to this Action are that between January and August 2010 the Plaintiff was contracted by the Defendant, Roopnarine Sukraj to perform various construction works at the Defendant's service station in Springlands, Corentyne, Berbice.

FACTS/ EVIDENCE

The Plaintiff testified that he was contracted in January 2010 to construct the building and canopy for a gas station at an agreed contract price of \$10,500,000.00. This job took five months to be completed and he was then contracted to put grill work on the building at a contract price of \$440,000.00. He was paid in full for these contracts.

The Plaintiff testified that around July 2010 he was contracted to concrete the entire yard at a contract price of \$17,750,000.00 and while performing that contract he was was contracted to build the "whole" fence and put grill work on it around the building at a contract price of \$10,900,000.00.

He testified that he completed the fence and the grill work on the fence and also completed the concrete to the front of the building and was working on the concrete at the back of the building.

At this point a dispute arose with the Defendant, since he claims that the Defendant asked him to construct two additional fences with steel gates on either side of the building at no additional charge.

At this point, the Plaintiff claims that \$8,000,000.00 was outstanding on the last two contracts and he had completed, in his estimation, \$7,200,000.00 worth of work.

Ishwarie Sukraj, the daughter of Roopnarine Sukraj testified that she was present when the various contracts were entered into by the Plaintiff and she dealt with all of the payments on the contracts.

She testified that the contracts were with the Plaintiff and Musta Alli and so payments on the contracts were disbursed to both of those persons.

She testified that they were contracted on four contracts to perform work at the service station to a total of \$50,225,000.00.

She testified that the Plaintiff walked off the job without completing all of the works contracted and that at that point the sum of \$47,175,000.00 had been disbursed to the Plaintiff and Musta Alli.

She further testified that the Defendant paid one Anand Singh the sum of \$11,000,000.00 to complete the works started by the Plaintiff and also to rectify works completed by the Plaintiff.

#### ANALYSIS

Four estimates signed by the Plaintiff were tendered and marked exhibits “A”, “B”, “F” and “G”.

These estimates represent the extent to which the contracts, referred to by both the Plaintiff and Defendant, were reduced into writing.

The total of these four “contracts” is \$50,225,000.00.

On the back of exhibit “F” there is a written breakdown of payments made on the contracts represented in exhibits “F” and “G” and it clearly shows that the Plaintiff accepted by his signature that on these two contracts the total balance due was \$3,940,000.00 at the time of the making of that record.

On the face of exhibit “A” (tendered by the Plaintiff), there is a recorded calculation adding the contracts represented by exhibits “A” and “B” and the aforementioned balance bringing the total balance then due to \$32,590,000.00.

Further recorded on the face of exhibit “A” are several payments signed for by both Musta Alli and the Plaintiff reducing the total balance due to \$5,000,000.00 signed and acknowledged by the Plaintiff who testified that that is his signature.

The Plaintiff testified that “*He was supposed to pay off when the work finish ...*” and “*The work was not completed ...*”.

He, in fact, is claiming \$7,200,000.00 on the basis that even though the balance on the last two contracts is \$8,000,000.00, there was still about \$800,000.00 work to be completed.

It is the Plaintiff’s testimony that “*After we came from the police station to the work site, I left. I did not return to work after that. He never told me anything to stop me from working.*”

It is clear from the Plaintiff’s testimony that he was never prevented from completing the work he was contracted to perform and therefore breached the contract.

Based on the documents tendered, the Court finds that the Plaintiff was not truthful about

1. the number of contracts entered into
2. the total value of all contracts entered into
3. the involvement of Musta Alli in the contracts

Further, the Plaintiff has not set out any basis for his quantification of work left unfinished.

In any event, based on the acknowledgements of payments on the tendered documents (except the back of exhibit “A”), the monies paid out on the four contracts by the Defendant is \$49,165,000.00 despite the fact that the Plaintiff testified that he was supposed to have been paid a total of \$39,590,000.00 **on all the contracts.**

### CONCLUSION

In the circumstances the Plaintiff’s Claim is dismissed.

Based on the foregoing the Court finds the Plaintiff liable to the Defendant for breach of contract, however, the Defendant has failed to provide any documentary evidence of any **special damages** in this regard, such as receipts for works done either to complete the contracts or to rectify work done by the Plaintiff.

In the circumstances of this case, the Court finds that it was imperative on the Defendant to provide such documentary evidence.

The Court found that the monies recorded as paid to Musta Alli on the back of exhibit “A” had no connection to the four contracts or any contract testified to by the Plaintiff or the Defendant, those payments being made in September 2010 after the Plaintiff had walked off the job and labelled as “**advance**” payments on those dates.

The Court does not find that the Plaintiff did anything to cause the Defendants’ business to shut down for 2 weeks or at all thereby causing them loss, in fact, Ms. Sukraj testimony is;

*“The entrance to the gas station was blocked with a zinc. Persons had to come through and exit through the same entrance.”*

*“The gas station was never shut down for business, but business was slow after he left because he blocked the entrance. We lost business for **3 - 4 months.**”*

Clearly any obstruction to an entrance of the gas station was there as a matter of necessity to facilitate the construction and further even if the Plaintiff had left a zinc blocking an entrance when he walked off the job, if that zinc was not there as a matter of necessity then it makes no sense why the Defendants did not simply remove it rather than shutting their business down or curtailing their business.

In any event the Defendants did not, nor did they attempt, to quantify their loss in that regard.

The Court awards the sum of \$750,000.00 to the Defendants against the Plaintiff as general damages for breach of contract.

Costs to the Defendants in the sum of \$150,000.00

---

Justice N. A. Singh