

**IN THE HIGH COURT OF THE COOK ISLANDS
HELD AT RAROTONGA
(CIVIL DIVISION)**

MISCELLANEOUS 50/2003

IN THE MATTER of Rule 132 of the Code of Civil procedure
of the High Court 1981

A N D

IN THE MATTER of an Application for an Interim Injunction

BETWEEN **WORLDWIDE BAIT LIMITED T/AS
BLUE REEF PILCHARDS** a duly
incorporated company having its registered
office at Auckland, New Zealand

Applicant

A N D

**RARO FISH CO. LIMITED (IN
RECEIVERSHIP)** a duly incorporated
company having its registered office at
Rarotonga

First Respondent

A N D

LATITUDE 22 FISHERIES LIMITED
a duly incorporated company having its
registered office at Rarotonga

Second Respondent

BEFORE THE HONOURABLE JUSTICE DAVID WILLIAMS

Friday 28 November 2003

UPON READING the Application for an Interim Injunction of the Plaintiff dated 25
November 2003 applying for various orders concerning two containers of pilchard bait
("the goods") and the affidavits in support **AND UPON HEARING** Mr C Little for the
Applicant, Mr J McFadzien for the First Respondent and Mr Rose for the Second
Respondent **THIS COURT ORDERS BY CONSENT** as follows:

1. The Second Respondent shall immediately release to the custody of the Applicant or to Cook Islands Trading Corporation as agent of the Applicant, (or such other agent of the Applicant as the parties may agree) the goods which are the subject of these proceedings and of **Plaint No. 44/2003** filed by the First Respondent against the Second Respondent.

2. The Applicant by its said agent is authorised to sell to any person the goods upon and subject to the following conditions, namely:
 - a. The sale price shall be agreed upon by the Applicant and the First Respondent;

 - b. There shall be a first charge on the proceeds of sale in favour of the Second Respondent in the sum of \$7,200 being reimbursement to the Second Respondent for electricity and storage costs incurred by it in respect of the goods. The charge shall be satisfied forthwith upon the conclusion of a sale of the goods under this paragraph 2. The Applicant and the First Respondent reserve their rights in respect of the said sum of \$7,200;

 - c. There shall be a second charge on the proceeds of sale in favour of Cook Islands Trading Corporation or other agreed agent of the Applicant for the purposes of carrying out the sale, for reasonable commissions to be charged by said agent in respect of the sale. This second charge shall be satisfied by way of a deduction from the proceeds of any sale concluded under this paragraph 2;

 - d. The balance of sale proceeds shall be paid by said agent to the Registrar of the High Court at Avarua, not to be released except by order of the Court;

 - e. The Applicant and the First Respondent reserve as against each other, their respective rights and remedies in respect of the net proceeds of the sale of the goods as if the proceeds were the goods themselves, and reserve also their rights as aforesaid in respect of the said sum of \$7,200 to be paid to the Second Respondent;

3. A copy of this order is to be served on Cook Islands Trading Corporation or other agreed agent.
4. Costs are reserved.

BY THE COURT

Jard Williams J
Registrar 28/11/2003