

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

**Civil  
Case No. 19/1401 SC/CIVL**

**BETWEEN: Best Point Cattle Company Limited**  
*Claimant*

**AND: Milai (Vanuatu) Limited**  
*Defendant*

**AND: David Russet**  
*Third Party*

**Coram: Justice Aru**

**Counsel: Claimant (no-appearance)**  
*Mr. J. Ngwele for the Defendant*  
*Mr. J. Malcolm for the third Party*

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**JUDGMENT**

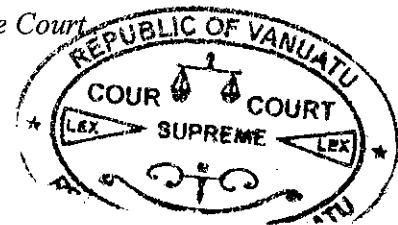
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1. This is an application to show cause pursuant to rule 18.11 of the Civil Procedure Rules.
2. The claimant and the defendant are owners of a cattle properties in Santo. The claimant filed its claim on 8 June 2019 alleging that some of its cattle which are branded with its brand have been seen in the defendant's property and were rebranded with the defendant's brand. The claimant sought orders for the return of its cattle to its property.
3. On 2 March 2020 consent orders were entered into by the claimant and the defendant as follows:-

*"(1). The defendant shall allow on 24 hour notice an independent qualified person to enter its property to assess the number and type of claimant's cattle held there.*

*(2). The defendant shall within 7 dates of the date of these orders provide to the claimant copies of all available documentation relating to the buying, selling or movement of cattle to or from the defendant's Belmol property in South Santo being lease titles 04/2942/002; 04/2944/005; 04/3013/004; 04/2941/009;*

*(3). The defendant be restrained from moving any cattle from its property pending compliance with the orders herein and consequent order of the Court*



*(4). liberty to apply on three days' notice to vary or discharge these orders."*

4. A defence to the claim was filed on 23 March 2020 with a third party notice joining the third party.
5. On 8 June 2020 the claimant was directed to file its sworn statements in support of the claim within 28 days and for the defendant and third party to respond accordingly. At the next conference on 8 September 2020 the claimant did not comply with those directions and no sworn statements were filed. The matter was adjourned to 27 October. The conference was again adjourned by consent. No sworn statements were filed by the claimant.
6. To date the directions of 8 June have not been complied with by the claimant .On 14 September 2021 Mr Morrison as Counsel for the claimant filed a notice of ceasing to act. At the conference on 21 September there was no appearance for the claimant. Mr Malcolm indicated that he intends to file a rule 18.11 application for the claimant to show cause. Directions were issued accordingly and the matter was relisted for 30 September. The application was filed with a sworn statement in support on 22 September requiring the claimant to show cause or judgement will be entered against him dismissing the claim. A proof of service of the application was filed on 29 September indicating that the application was served on 23 September on the claimant company's registered office and on Ridgway Blake Lawyers and on Mr Ngwele.
7. The claimant did not respond to the application and has not filed any response and has not appeared to show cause why the claim should not be dismissed. I heard submissions from Counsel that judgement be entered against the claimant and the claim be dismissed as the claimant has failed to show cause .Mr Ngwele endorses the submissions made by Mr Malcolm.

**Result**

8. Considering those submissions and the fact that the claimant has had notice of application and done nothing the claim is now dismissed. The defendant and the third party are each entitled to costs in the sum of VT80, 000 to be paid within 14 days.

**DATED at Port Vila this 1<sup>st</sup> day of October, 2021**

**BY THE COURT**

**D. Aru  
Judge**

