

OUTCOME DETAILS

**Supreme Court - Civil
at Supreme Court Sydney
on 11 September 2018**

2018/00076580-001 / Summons: Giabal Pty Ltd v Gunns Plantations Limited (in Liquidation)

HH makes orders in terms of short minutes of order initialled and dated today's date.

Short Minutes of Order

1. The Plaintiffs provide security for the costs of the Tenth and Eleventh Defendants in these proceedings in the amounts of:

- (a) \$120,000 for the costs up to close of pleadings (First Tranche); and
- (b) \$120,000 for the costs of discovery (Second Tranche),

(collectively, the Security).

2. The First Tranche of the Security will be made by way of a payment into a controlled monies account in the joint names of the solicitors on the record for the Plaintiffs and the Tenth and Eleventh Defendants (Controlled Monies Account) on or before 3 October 2018 (subject to any restrictions/delays imposed by the bank issuing the controlled monies account).

3. The Second Tranche of the Security will be made by way of a payment into the Controlled Monies Account within seven (7) days of the Court making discovery orders for production by the Defendants.

4. Upon final orders being made in these proceedings:

4.1 the applicable amount of the Security (plus any interest) will be paid to the Tenth and/or Eleventh Defendants within two business days:

- (a) of an order that the Plaintiffs pay the Tenth and/or Eleventh Defendants' costs; and
 - (b) the Plaintiffs and the Tenth and/or Eleventh Defendants agreeing the quantum of costs, or failing agreement, the Tenth and/or Eleventh Defendants obtaining a certificate of determination of costs which is registered as a judgment with the Supreme Court of NSW, or
- 4.2 the applicable amount of the Security (plus any interest) will be paid to the Plaintiffs within two business days where:

- (a) no order has been made that the Plaintiffs pay the Tenth and/or Eleventh Defendants' costs; or
- (b) any costs order in favour of the Tenth and/or Eleventh Defendants is less than any costs order in favour of the Plaintiffs; or
- (c) there is remaining Security (plus any interest) after the payment to the Tenth and/or Eleventh Defendants in accordance with orders 4.1(a)–(b) above.

5. The Plaintiffs and the Tenth and Eleventh Defendants may by agreement direct payment of the Security on terms other than those set out in order 4.

6. If any of the amounts specified in Order 1(a) or 1(b) above are not paid strictly in accordance with Orders 2 and 3 above:

6.1 the Associate to the Commercial List Judge is to be notified of the non-payment;

6.2 the proceeding as against the Tenth and Eleventh Defendants is to be stayed until the unpaid amount is provided or until the proceeding as against the Tenth and Eleventh Defendants is permanently stayed or dismissed; and

6.3 the Tenth and Eleventh Defendants have liberty to apply for the proceeding as against them to be permanently stayed or dismissed.

7. The Tenth and Eleventh Defendants' Motion filed on 21 August 2018 is otherwise dismissed subject to Order 8 below.

8. The Tenth and Eleventh Defendants have liberty to apply for an order from the Court for additional security for their costs, subject to the Tenth and Eleventh Defendants providing an affidavit setting out the actual costs incurred in respect of matters for which Security has been provided pursuant to Order 1(b).

9. The Plaintiffs have liberty to apply to the Court to substitute the form of the Security on 5 business days' notice to the Tenth and Eleventh Defendants.

Justice M Ball

Signed

Date