

IN THE COURT OF APPEAL, FIJI
ON APPEAL FROM THE HIGH COURT

Civil Appeal No. ABU 0006 of 2016
(High Court Civil Appeal No. HBC 129 of 2014)

BETWEEN : **DAYA WATI**

Appellant

AND : **REGISTRAR OF TITLES**

Respondent

Coram : **Basnayake JA**
Lecamwasam JA
Almeida Guneratne JA

Counsel : **Mr. P. I. Knight for the Appellant (Applicant)**
Ms. M. Motofaga for the Respondent

Date of Hearing : **21 May 2018**

Date of Ruling : **01 June 2018**

RULING

Background to the present application

[1] This matter came upon a motion filed by the Appellant subsequent to a judgment of the full court dated 14 September, 2017 wherein it had been ordered (by majority decision) in allowing the Appeal that the Respondent is advised and directed to issue a fresh certificate of title to the entirety of a particular land in question in the name of the Appellant.

[2] The material part of the said motion dated 12 April, 2018 the Appellant had states thus:

“In her appeal, the Appellant sought an order that the Respondent issue a vesting order in favour of the Appellant relating to a four fifths undivided share in Certificate of Title 33461.

.....
When we attempted to have the Registrar of Titles register the vesting order in respect of a four fifth share in CT 33461, she told us that she could not do this because of the order of the Court that she issue a new title to the entirety of the land in question in the name of the Appellant.”

[3] For the said reasons, learned counsel for the Appellant sought a correction of the order made by the Court by substituting for the order that “The Respondent is advised and directed to issue a fresh Certificate of Title to the entirety of the land in question in the name of the Appellant, the following order:

“The Respondent register a vesting order in the name of the Appellant in respect of a four fifths undivided share in Certificate of Title 33461”.

[4] Counsel submitted that, that will enable the Appellant to have the vesting order registered, as sought in the Appeal.

[5] Having regard to the provisions of Section 78, 87 to 89 of the Land Transfer Act (Cap131) we saw merit in the said motion of 12 April 2018.

[6] Ms Motofaga, (Counsel for the Respondent) had no objection to the application.

[7] Accordingly, this court proceeds to correct the said orders made in its judgment of 14 September, 2017 to read as follows:

- “1. The appeal is allowed and the judgment of the High Court dated 16 December, 2015 is set aside.
2. The Respondent is advised and directed to issue a vesting order in the name of the Appellant in respect of a four fifths undivided share in Certificate of Title 33461.
3. There shall be no order for costs.”

Orders of Court

1. *The Motion/Application dated 12 April, 2018 of the Appellant is allowed.*
2. *No order for costs.*



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Hon. Justice E. Basnayake
JUSTICE OF APPEAL



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Hon. Justice S. Lecamwasam
JUSTICE OF APPEAL



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Hon. Justice Almeida Guneratne
JUSTICE OF APPEAL