

IN THE HIGH COURT OF THE REPUBLIC OF FIJI
WESTERN DIVISION
AT LAUTOKA

CIVIL JURISDICTION

CIVIL ACTION NO. HBC 57 OF 2014

BETWEEN : **RAVIN KUMAR PANDE** aka **RAVEENDRA KUMAR PANDEY** the Sole Executor and Trustee of the Estate of Mahesh Prasad aka Mahes Persad aka Mahesh Prasad Pande aka Mahesh Prasad Pandey of Brisbane, Queensland, Australia.

PLAINTIFF

AND : **MAYA WATI, LILA WATI, MUNIAMMA** and **PACOLA TEWAKE**, all of Naisosovou, Nadi.

DEFENDANTS

Appearances:

Mr M. Chand for the Plaintiff

No appearance for the 1st Defendant

No Appearance for the 2nd Defendant

No appearance for the 3rd Defendant

4th Defendant in person

Date of Hearing : 14/05/2014

Date of Ruling : 14/05/2014

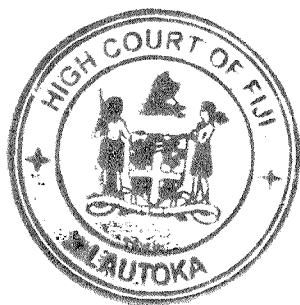
J U D G M E N T

1. This is an application filed by Plaintiff on 15 April 2014 under s. 169 (a) of the Land Transfer Act seeking vacant possession of that portion of all that piece and parcel land comprised in Certificate of Title No. 22016, Lot 1 DP No.5306 situated at Naisosovou, Nadi (the property).

2. Pursuant to section 169 (a) of the Land Transfer Act, the plaintiff being the last registered proprietor of the land may summons any person to appear before a judge in chambers to show cause why the persons summoned (defendant) should not give up possession to the applicant (plaintiff).
3. Today-14 April 2014 is the summons returnable day. Only fourth defendant appeared in person at the Court and stated that he is willing to vacate the property in a month time so that he can find another place. I asked him twice in iTaukei language as he appeared in person. Yet, He confirmed again that he can vacate. Hence, I can enter Judgment against him by consent.
4. Rest of the defendants are not appearing. Their names were called out several times. Affidavit of service has been filed in proof service. It confirms they were all personally served with copy of the application and other supporting documents on 24 April 2014 returnable today – 14 April 2014, a day not less than 16 days after service. The service has been effected in accordance with s.170 of the Land Transfer Act. Pursuant to that section the summons (application) must require the person summoned (defendant) to appear at the court on a day not earlier than 16 days after the service of the summons. In this case I am satisfied that that requirement has been complied with.
5. The summons filed by the plaintiff giving full particulars of the property requires the defendants to show why they should not give possession of the property to the plaintiff. This complies with another requirement of section 170 of the Land Transfer Act.
6. 1st – 3rd defendants failed to appear at the court and to show cause why they should not deliver possession of the land to plaintiff.
7. The plaintiff is the sole executor and trustee of the Estate of Mahesh Prasad aka Mahes Prasad aka Mahesh Prasad Pande aka Mahesh Prasad Pandey, being the registered proprietor of the property. I am satisfied that the Plaintiff is the registered proprietor of the property

through transmission by death as per the certified true copy of the Certificate of Title No. 22016.

8. On the day appointed for the hearing of the summons, if the defendant does not appear, then upon satisfaction of the judge of the due service of the summons and upon proof of the title by the proprietor or lessor, the judge may order immediate possession to the plaintiff, see section 171 of the Land Transfer Act.
9. I therefore, being satisfied with the due service of the summons and with the proof of the plaintiff's title, give judgment in favour of the plaintiff by consent in respect of the fourth defendant and by default in respect of other defendants.
10. Accordingly I order the defendants to give vacant possession of the property to the plaintiff. The defendants have a month to vacate from today. I make no order as to costs.
11. Orders accordingly.



At Lautoka

14/05/2014

M H Mohamed Ajmeer

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M H Mohamed Ajmeer
Master of the High Court