

**IN THE HIGH COURT OF FIJI**  
**AT LAUTOKA**  
**CIVIL JURISDICTION**

**Judicial Review HBJ No. 003 of 2015L**

**IN THE MATTER** of an Application by  
**LUSIANA RADUA** for a Judicial Review  
under Order 53, Rule 3(2) of the High  
Court Rules 1988 and the High Court  
(amendment) Rules 1994

**AND**

**IN THE MATTER** of the decision by the  
iTaukei Lands Trust Board by its Gazette  
Notice headed "Allotments of former  
Crown Schedule A and B Lands and  
Extinct Mataqali Lands". Dated 23<sup>rd</sup>  
April 2004, allotment of Lot 8  
comprising 367.454 Hectares Of  
Mataqali Natogo owned Native Land  
known as Lot as shown On map H/54,  
H10/2, J6/1, to the 1<sup>st</sup> Interested Party  
Yavusa Mali.

**BETWEEN** : **STATE**

**A N D** : **iTAUKEI LANDS TRUST BOARD** a body duly  
constituted under the iTaukei Lands Trust Act

**RESPONDENT**

**EX-PARTE** : **LUSIANA RADUA** of Rabulu Village, Tavua, Ba  
Domestic Duties for and on behalf of herself and  
Mataqali Natogo.

**APPLICANT**

**A N D** : **SAMUELA RATU** of Naseyani Village, Vatukaloko,  
Ra, Farmer on behalf of Yavusa Mali of Naseyani  
village.

**1<sup>st</sup> INTERESTED PARTY**

**A N D** : **iTAUKEI LANDS AND FISHERIES COMMISSION** a  
body duly constituted under the iTaukei Lands Act  
**2<sup>nd</sup> INTERESTED PARTY**

**Appearance:**

**Mr Vuataki for the Applicant**

**Mr Lutumailagi for the Respondent**

**Mr Tunidau for the 1<sup>st</sup> Interested Party**

**Mr Pickering for A.G'S Office for the 2<sup>nd</sup> Interested Party**

**Date of Hearing** : 26 May 2015

**Date of Judgment** : 04 June 2015

**Before** : Justice R. S. S. Sapuvida

**J U D G M E N T**

**Introduction**

1. The Applicant Lusiana Radua was registered in the Vola ni Kawa Bula ("Book of Living Descendants") of Mataqali Natogo as shown in Annexure "BR1" of the Affidavit of Buatavatava Ravoka of the iTaukei Lands And Fisheries Commission. The Commission is mandated under the iTaukei Lands Act to keep such records.
2. Under section 19(1) of the iTaukei Lands Trust Act the lands of any extinct Mataqali will vest in the iTaukei Land Trust Board ("the Board"). The Board may allot the land to a qali of which it was a part or allot it to some other division of the people who may apply for it or retain it or deal with it upon such terms as the Board may deem expedient.
3. Mataqali Natogo owned native land known as NLC Lot 8 as shown on Map H/54, H10/2, J6/1.

4. Whilst Lusiana Radua was still alive the Board by Gazette Notice dated 23<sup>rd</sup> April, 2004 allotted Lot 8 comprising 367.454 Hectares of her Mataqali's land to the 1<sup>st</sup> Interested Party Yavusa Mali (Annexure "LR2"). The Gazette was headed "**Allotment of Former Crown Schedule A and B Lands and Extinct Mataqali Lands**". (emphasis added).
5. Lusiana Radua was not aware of this until she was approached because of water extraction project which needed such Lot for its access and to have a container yard on it. On her going to a Law Office on 27<sup>th</sup> October, 2014 she was informed that Mataqali Natogo had been gazetted as extinct.
6. The Applicant then deposed a statutory declaration that she was a member of Mataqali Natogo and she was still alive. On 30<sup>th</sup> of October, 2014 her lawyers sent the statutory declaration to the Respondent with a covering letter requesting the Respondent to revoke its Gazette Notice.
7. By letter dated 1<sup>st</sup> December, 2014 the Respondent advised the Applicant's Solicitors that it "had exhausted all its internal processes prior to the gazetting of the extinct Mataqali. Therefore, the Allotment of Former Crown Schedule A and B Lands and extinct Mataqali lands that was gazetted on 23<sup>rd</sup> April 2004 remain."
8. Lusiana Radua then applied for leave to review the said decision of the Respondent and leave was granted on the 9<sup>th</sup> day of April, 2015.

### **The Application**

9. The Applicant Lusiana Radua, by her Originating Summons filed thereafter, dated 10 April 2015, seeks the following declarations and orders:
  - (i) Declaration that Mataqali Natogo has not ceased to be exist.

- (ii) A Declaration that the Respondent had exceeded its powers under section 19(1) of the iTaukei Lands Trust Act, in vesting lands of Mataqali Natogo in itself and allotting NLC Lot 8 to Yavusa Mali.
- (iii) A Declaration that the Respondent failed to consider the relevant consideration that Luciana Radua was still registered as a member of Mataqali Natogo as at 23 April 2004 and that the said Mataqali was not extinct when it did cause a gazette notice to be published on that date giving notice that such Mataqali was extinct and Lot 8 of its lands allotted to Yavusa Mali.
- (iv) A Declaration that the Respondent had exceeded jurisdiction, in not receiving a Report from the Chairman of the iTaukei Lands and Fisheries Commission or the Reserves Commissioner that Mataqali Natogo was extinct before it deprived Mataqali Natogo of ownership of its lands and allotting such lands to Yavusa Mali.
- (v) Alternatively, A Declaration that the Respondent had acted on a mistake of fact that Mataqali Natogo was extinct as at 23 April 2004 when it did gazette that such Mataqali was extinct when in fact Lusiana Radua was alive on that date and was a member of said Mataqali.
- (vi) A Declaration that sub-sections 19(2) to (6) of the iTaukei Lands Trust Act are unconstitutional under section 27(1) of the Constitution in arbitrarily depriving Mataqali Natogo of its lands under the procedures set out therein.
- (vii) Certiorari to remove the decision of the Respondent to this Court that Mataqali Natogo is extinct and lot 8 of Mataqali Natogo lands be allotted to Yavusa Mali of Naseyani Village and such decision and orders, vesting and allotment s made therein be quashed.
- (viii) Order of Mandamous directing the Respondent by itself, its servants and employees to issue a notice to be published in the

Fiji Government Gazette and a local newspaper in vernacular iTaukei and English revoking notice number 2 claim number 56A published 23 April 2004 and issue notice that Mataqali Natogo was not extinct from 23 April 2004.

- (ix) Oder of Mandamous directing the Respondent by itself, its servants and employees to revoke and Order made by it under section 19(1) of the iTaukei Lands Trust Act vesting Mataqali Natogo lands in itself and or allotting Lot 8 of Mataqali Natogo lands to Yavusa Mali and such revocation and cancellation of registration of Yavusa Mali as owner of NLC Lot 8 Sheet Reference number H/54, H10/2, J6/1 in the Register of iTaukei Land.
- (x) STAY OF FURTHER ALLOTMENTS of Mataqali Natogo lands NCL Lot 6 on Map Reference H/54, H10/2, J6/1, J1/3.
- (xi) Other Declarations or Mandamous Orders as the honourable Court may decide.
- (xii) Costs on an indemnity basis.

### **At the Hearing**

- 10. The Counsel for Applicant made lengthy Oral submissions at the hearing and further tendered written submissions in support of this application.
- 11. The submissions of the Respondent's Counsel was limited to the fact as admitted by the Respondent that, the Respondent has not followed the correct procedure in making the decision to allot the lands in question to the 1st Interested Party.
- 12. The Counsel for 1st Interested Party made very short submissions and pleaded that, he has no objection in allowing the Applicant's present application.

13. The Counsel for 2nd Interested Party filed an Affidavit in reply to the Originating Summons of the Applicant, and further orally submitted that there is a procedural error made by the Respondent in this matter.

**The Processes to be followed**

14. The processes to be followed by the Respondent for extinct Mataqali lands is set out under section 19 of the iTaukei Land Trust Act [as amended under the iTaukei Land Trust (Amendment) Decree No. 14 of 2000]:

“19.-(1) If any mataqali shall cease to exist by the extinction of its members its land shall vest in the Board as ultimus haeres to be allotted to the qali of which it was a part or other division of the people which may apply for the same or to be retained by the Board or dealt with otherwise upon such terms as the Board may deem expedient.

(2) A report to the Board under the hand of the Chairman of the iTaukei Lands and Fisheries Commission appointed under the iTaukei Lands Act or of the Commissioner that a mataqali has ceased to exist by the extinction of its members and describing the lands which in consequence of such extinction vest in the Board under subsection (1) shall be evidence that the mataqali is extinct.

(3) At any time after a report referred to in subsection (2) has been received the Board shall direct a notice in the form prescribed to be published in the Gazette and in a newspaper published in the Fijian language and circulating in Fiji, and a copy of such notice shall be sent as soon as possible by the Board through the Commissioner to the Roko Tui of the province in which any part of the land is situated.

(4) If any person desires to show that the mataqali has not ceased to exist by reason of the extinction of its members, he may, within three months of the date of publication of the notice in the Gazette and in a newspaper published in the Fijian language and circulating in Fiji, give notice of objection in writing to the Board setting out particulars of any members of the mataqali alleged to be still surviving. Upon receipt of such notice of

objection the Board shall cause such investigation to be made as it may consider necessary.

(5) If the Board after such investigation is of the opinion that the objection to declaring the mataqali extinct is not well founded, the Board shall cause the Commissioner to send notice by post to the person who has given notice of objection in writing and also to the Roko Tui of the province in which any part of the land is situated informing them that the objection is disallowed.

(6) If no notice of objection as provided for in subsection (4) is received by the Board, or if such objection having been duly made is disallowed, the Board may make an order in the form prescribed and such order shall on presentation to the Registrar of Titles be filed by him and the land shall be deemed to be native land for all purposes.

**19A.** (1) An order by the Board under section 19(1) allotting or otherwise dealing with land vested in the Board under that section must be transmitted to the iTaukei Lands and Fisheries Commission which must register the allotment or dealing in the Register of Native Lands.

(2) Until an allotment of or other dealing with extinct mataqali land is made under section 19(1), all income arising from leases and other dealings with unallotted extinct mataqali land (less not more than 15% for administration costs of the iTaukei Land Trust Board) must be paid to the Fijian Affairs Board and used exclusively for the benefit of the iTaukei Fijians in a manner and for purposes approved by the Minister on the advice of the Great Council of Chiefs.

(3) In exercising its powers under this section or section 19(1), the Board must comply with any procedures prescribed in the iTaukei Land (iTaukei Reserves) Regulations.”.

15. Subsection (2) and (3) of section 19 and subsection (1) of section 19A requires the Respondent to;
- a. Receive a Report from the Chairman of the iTaukei Lands Commission or a Commissioner that the Mataqali is extinct

and describing the lands that will vest in the Board because of such extinction;

- b. Once that Report is received the Respondent shall direct a Gazette in the prescribed form and also publish in the newspaper and send copy of the Notice to the Roko, in this instance the Roko Tui Ba because the land is in the Province of Ba;
- c. Within three (3) months of such Notice any person like the Applicant can object by stating they are still alive and their Mataqali stated to be extinct is not extinct;
- d. The Respondent will then direct an investigation and if the objection is disallowed or there is no objection, the Board can deal with the land by making an Order allotting the land to another Unit and lodge copy of its Order with the Registrar of Titles and the iTaukei Lands Commission.

16. It should be noted that Section 19(2) by the use of the word "shall" makes it mandatory that a Report from the Chairman of the 2<sup>nd</sup> Interested Party or a Commissioner be used as evidence of extinction of the Mataqali. This is justified by the fact that the 2<sup>nd</sup> Interested Party is mandated under section 9(1) of the iTaukei Lands Act to keep records of names of a landowning unit. The sub-section states (as relevant) as follows;

**"9.-(1) In all cases in which the Commission decides the ownership of any land it shall record the boundaries of such land and in all cases in which the land is decided to be the property of a native Fijian it shall record the names of the persons comprising the proprietary unit in respect of that land. The boundaries of the land shall be....."**  
(emphasis added).



**Has the Respondent followed the above procedures to allot Lot 8 to 1<sup>st</sup> Interested Party ?**

17. Buatavatava Ravoka at paragraph 11 of his Affidavit deposes that;

“The 2<sup>nd</sup> Respondent further states that in this case and or matter no report was sent to I-TLTB as the Mataqali was not extinct as a current member was still alive as is the case in this matter.”

18. At paragraphs 13 and 16(iii) of his Affidavit that;

“the 2<sup>nd</sup> Interested Party supports the Applicant’s claim that the Respondent had made an error”.

“the commission made a thorough research can substantiate that **NO CONFIRMATION** was delivered in accordance to the extinction of Mataqali Natogo to I-TLTB because and due to the fact that a member of the Mataqali is still registered and alive.”

19. Taraivina Ranadi Biu in her Second Supplementary Affidavit in Support annexes a letter dated 20<sup>th</sup> August, 2014 from the iTaukei Lands and Fisheries Commission dated 20<sup>th</sup> August, 2014 to Director Land Use Unit on the status of Lot 8 NLC 146 –Sht. Ref. J06/1,10/10/2, H05/4, J01/3. In that letter the 2<sup>nd</sup> Interested Party states that;

“According to our records, the above piece of land is owned by MATAQALI NATOGO of the Yavusa Nadokana of which the members are enumerated in the Register of iTaukei Landowners of the District of Tavua, Tokatoka number 208.

The Commission confirms that Lusiana Radua born 2<sup>nd</sup> December 1933 is the lone surviving member of the Mataqali Natogo, she is also the current registered Head of Mataqali.”

20. The Respondent has not filed any Affidavit in this matter. However a Brief by the Reserves Commission of the Respondent to its General

Manager dated 26<sup>th</sup> August 2014 is annexed as Annexure “LR5” by Taraivina Ranadi Biu in her Second Supplementary Affidavit in Support. The Brief at paragraphs 1 to 6 states as follows;

1. Lot 8 is registered under RTL folio 151 to be owned by Mataqali Natogo of Yavusa Nadokana. Appendix A
  2. TLC has confirmed that Mataqali Natogo is survived by Lusiana Radua who was born on 2<sup>nd</sup> December 1933. Appendix B.
  3. Mataqali Natogo also owns Lot 4 H/54 -362 acres. Lot 4 is leased and funds are going to Mataqali Natogo through DU 5306. There is an assignment on the DU 5306 that transfer funds to the bank account of Lusiana Radua.
  4. Lot 8 has been allotted as Holdings to Yavusa Mali and published by Gazette on 23<sup>rd</sup> April 2004. Appendix C. Lease funds from this land is now being received by Yavusa Mali through DU 8523.
  5. The Board recommendation for Lot 8 is at Appendix D
  6. It seems that the Reserves Commission made recommendation for allotment of this land without first ascertaining the extinction of Mataqali Natogo. **I cannot find a confirmation of extinction from TLC nor a gazette notice of extinction in the file.** (emphasis added)
21. Paragraph 6 above confirms that the Respondent failed to follow the required procedures i.e. a Report from 2<sup>nd</sup> Respondent that Mataqali Natogo was extinct, gazette a Notice in the prescribed form set out under the iTaukei Land (Miscellaneous Forms) Regulations (Form 3, Regulation 4) and make an Order in the prescribed Form set out by Form 4 Regulation 5 of the same.

22. The Brief then makes three Conclusions which confirms as follows:

1. RTL Title of Lot 8 is still registered under Mataqali Natogo,
2. Extinction of Mataqali Natogo was not confirmed by TLC and not published by Notice in the Gazette as required by the Act (section 19 TLTA Cap 134).
3. Allotment of Lot 8 to Yavusa Mali is not proper as the Mataqali Natogo is yet to be declared extinct and proper procedures of extinction under the Act were not followed”.

23. The Supreme Court in **Satala v Bouwalu** [2008] FJSC 20; CBV0005.2006S(13 October 2008) set out the general grounds of judicial review as follows;

“[16] The petitioner seeks judicial review of the decision of the Commission evidenced in its letter of 5 November 1999. Broadly speaking, judicial review is available on one or more of three general grounds: illegality (such as absence of power), irrationality, and procedural impropriety (usually a denial of natural justice): Council of Civil Service Unions v Minister for the Civil Service [1985] AC 374, 410 per Lord Diplock.

[17] The courts have no power to review the merits of such decisions, and must not usurp the proper role of the decision maker.”

24. Pathik J in State v Arbitration Tribunal, Ex Parte Land Transport Authority [2004] FJHC 152; HBJ11.2002S(15 September 2004) quoted Lord Templeman in **Reg. v Inland Revenue Commissioners, Ex parte Preston** (1985) A.C. 835 at 862:

**“ Judicial review is available where a decision-making authority exceeds its powers, commits an error of law , commits a breach of natural justice, reaches a decision which no reasonable tribunal could have reached, or abuses its powers.”**

25. It is clear that the Respondent had not followed the law and procedures as set out under section 19 of the iTaukei Land Trust Act and the prescribed form of Notice and Order set out in the iTaukei Land (Miscellaneous Forms) Regulations. It has therefore exceeded its powers, committed error of law and not followed procedures resulting in breach of natural justice to the Applicant.
26. Because there was no Report from 2<sup>nd</sup> Respondent that Mataqali Natogo was extinct, the **Respondent had no power** to publish any gazette notice that such Mataqali was extinct. It then abused its power of allotment by purportedly allotting Lot 8 to Yavusa Mali the 1<sup>st</sup> Interested Party. It had no power to allot in such manner as allotments of extinct Mataqali lands are done by Order in the form prescribed in the iTaukei Land (Miscellaneous Forms) Regulations.
27. It then did not follow the prescribed form of giving Notice of Extinction and inviting objections. Rather than make an Order as required to vest extinct Mataqali lands as required under section 19(6) of the iTaukei Lands Trust Act it gazetted an allotment that has no basis at law.
28. It is therefore clearly proved that Mataqali Natogo has not ceased to exist. A declaration to that effect needs to be made in Declaration i.
29. The Respondent had exceeded its powers under section 19(1) of the iTaukei Lands Act in vesting Mataqali Natogo lands itself and allotting Lot 8 to Yavusa Mali. A declaration to that effect therefore needs to be made as sought in declaration ii.
30. The Respondent's Reserve Commissioner in the Brief to its General Manager stated at paragraph 11 that;

“There is a letter from TLC in 1995 (Appendix H) which states that Mataqali Natogo is not extinct and is survived by Lusiana Radua, daughter of Wakesa Kurimai. The letter has been endorsed by RC – Caginavanua. RC may have overlooked the information in that letter or had other reasons for recommending allotment of land to Yavusa Mali”.

31. The Respondent has not taken account of the relevant consideration that Lusiana Radua was still registered as a member of Mataqali Natogo as at 23<sup>rd</sup> April, 2004. Because of that the Mataqali was not extinct when it did cause a gazette notice to be published giving notice that such Mataqali was extinct and its Lot 8 allotted to Yavusa Mali. A declaration to that effect need to be made as sought in declaration iii.
32. It is clear that the Respondent had exceeded its jurisdiction in not receiving a Report from the Chairman of the iTaukei Land and Fisheries Commission or a Commission that Mataqali Natogo was extinct before it purportedly allotted Lot 8 to Yavusa Mali.
33. Clearly the Respondent had acted on a mistake of fact that Mataqali Natogo was extinct on 23<sup>rd</sup> April, 2004.
34. If whilst Mataqali Natogo exists, section 19 of the iTaukei Lands Act cannot arbitrarily deprive it of its lands. If that were so it would be a clear breach of section 27(1) of the Constitution of the Republic of Fiji.  
-- Section 27.(1) states:  
  
“Every person has the right not to be deprived of property by the State other than in accordance with a written law referred to in sub section (2), and no law may permit arbitrary acquisition or expropriation of any interest in any property.”
35. Land is “property”. Section 19 is “a law”. It cannot permit the Respondent to arbitrarily acquire Mataqali Natogo lands and allot Lot 8 to Yavusa Mali.
36. This long held Principle of protecting the ownership of the iTaukei land with its customary owners is well preserved by the Constitution of Fiji by section 28 as follows:  
  
“ 28.—(1) The ownership of all iTaukei land shall remain with the customary owners of that land and iTaukei land shall not be permanently alienated, whether by sale, grant, transfer or exchange, except to the State in accordance with section 27.

(2) Any iTaukei land acquired by the State for a public purpose after the commencement of this Constitution under section 27 or under any written law shall revert to the customary owners if the land is no longer required by the State.”

37. In the present case it was arbitrary because there is no requirement of direct notice to Lusiana Radua that her Mataqali was considered extinct. It only gave notice to readers of a Gazette and newspapers and to an official called a Roko. It is therefore the Declaration vi as prayed for by the Applicant need to be granted.
38. The section 100 sub section (4) of the Constitution of the Republic of Fiji provides provision & empowers the High court to deal with any matter arising under the Constitution or involving its interpretation.
39. It can clearly be observed on the face of it that there has been a blatant violation of the provisions of section 27(1) and 28 (1) of the Constitution by the Respondent in the present case when it made the decision under the provisions of section 19(1) to (6) of the iTaukei Land Trust Act, in arbitrarily vesting the iTaukei land to the 1st Interested Party which is absolutely unconstitutional.
40. Since the allotment made by the Respondent under Gazette Notice dated 23<sup>rd</sup> April, 2004 is clearly illegal, procedurally irregular, and absolute unconstitutional, it is necessary to revise & revert the purported vesting of Mataqali Natogo lands in the Respondent and its allotment of Lot 8, by way of a writ of Certiorari as sought in vii.
41. It is also needed the Orders of Mandamous requiring Respondent to correct its Gazette Notice and revoke any Order made by it regarding Mataqali Natogo lands as sought in viii and ix of the Originating Summons.

### **Indemnity Costs**

42. Indemnity costs can be awarded where there has been reprehensible conduct by the losing Party: **State v The Public Service**

**Commission; Ex parte Beniamino Naiveli** Judicial Review 29/94, CA Appeal No. 52/95 (19 August 1996). The quest should be whether or not the justice of the case requires the winning party to be awarded costs on an indemnity basis: **Prasad v Divisional Engineer Northern (No. 2)** [2008] FJHC 234; HBJ03.2007(25 September 2008).

43. In this particular case the Respondent had a letter from iTaukei Land and Fisheries Commission in 1995 (Appendix H) which states that Mataqali Natogo is not extinct and is survived by Lusiana Radua, daughter of Wakesa Kurimai. Despite this letter it made the Gazetted allotment on 23<sup>rd</sup> April, 2004.
44. When the Applicant through her Solicitors sent a request on the 31<sup>st</sup> October 2014 requesting that it amend the Gazette with supporting statutory declaration by Applicant it replied by letter dated 1<sup>st</sup> December 2014 that the Gazette would remain. Had it amended the Gazette, this Judicial Review would not have been filed.
45. Even when the Applicant filed the Reserve Commissioner's brief to General Manager, (LR5) that the Respondent had not followed procedures under the Act, the Respondent has not even made a gesture to correct itself from its position resulting in, the matter proceeding to hearing and legal costs incurred by the Applicant which clearly reflects the reprehensible conduct of the Respondent.
46. The Applicant has submitted a supplementary Affidavit of MEREISI LIKU TINAIVUGONA along with an invoice (MLT A) for a sum of FJD \$ 12,075.00 issued by her law firm VUATAKI LAW, and a receipt (MLT B) issued by the same law firm to the Applicant confirming the receipt of the same amount as legal fees charged from the Applicant in account of this application which confirms the indemnity cost incurred by the Applicant as a result of this litigation.

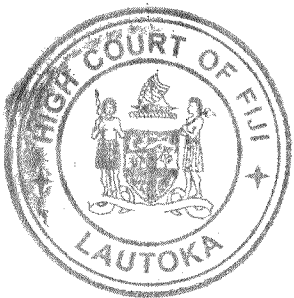
47. I therefore on the foregoing reasons in the Judgment, hold that the Applicant is entitled to the reliefs prayed for by her Originating Summons and make the following Orders/Declarations:

- (1) That, Mataqali Natogo has not ceased to exist.
- (2) That the Respondent had exceeded its powers under section 19(1) of the iTaukei Lands Trust Act, in vesting lands of Mataqali Natogo in itself and allotting NLC Lot 8 to Yavusa Mali.
- (3) That, the Respondent failed to consider the relevant consideration that Luciana Radua was still registered as a member of Mataqali Natogo as at 23 April 2004 and that the said Mataqali was not extinct when it did cause a gazette notice to be published on that date giving notice that such Mataqali was extinct and Lot 8 of its lands allotted to Yavusa Mali.
- (4) That, the Respondent had exceeded jurisdiction, in not receiving a Report from the Chairman of the iTaukei Lands and Fisheries Commission or the Reserves Commissioner that Mataqali Natogo was extinct before it deprived Mataqali Natogo of ownership of its lands and allotting such lands to Yavusa Mali.
- (5) That the Respondent had acted on a mistake of fact that Mataqali Natogo was extinct as at 23 April 2004 when it did gazette that such Mataqali was extinct when in fact Lusiana Radua was alive on that date and was a member of said Mataqali.
- (6) That, sub-sections 19(2) to (6) of the iTaukei Lands Trust Act are unconstitutional under section 27(1) of the Constitution in arbitrarily depriving Mataqali Natogo of its lands under the procedures set out therein.
- (7) Hereby issue a writ of Certiorari to remove the decision of the Respondent of that Mataqali Natogo is extinct and lot 8 of Mataqali



Natogo lands be allotted to Yavusa Mali of Naseyani Village and such decision and orders, vesting and allotments made therein be quashed.

- (8) Hereby issue a Writ of Mandamous directing the Respondent by itself, its servants and employees to issue a notice to be published in the Fiji Government Gazette and a local newspaper in vernacular iTaukei and English revoking notice number 2 claim number 56A published 23 April 2004 and issue notice that Mataqali Natogo was not extinct from 23 April 2004.
- (9) Hereby issue a Writ of Mandamous directing the Respondent by itself, its servants and employees to revoke any Order made by it under section 19(1) of the iTaukei Lands Trust Act vesting Mataqali Natogo lands in itself and or allotting Lot 8 of Mataqali Natogo lands to Yavusa Mali and such revocation and cancellation of registration of Yavusa Mali as owner of NLC Lot 8 Sheet Reference number H/54, H10/2, J6/1 in the Register of iTaukei Lands.
- (10) Hereby permanently stay of further allotments of Mataqali Natogo lands NLC Lot 6 on Map Reference H/54, H10/2, J6/1, L1/3.
- (11) Indemnity Cost of FJD\$ 12,075.00 to be paid to the Applicant by the Respondent.



**At Lautoka**

**R.S.S.Sapuvida.**

**JUDGE**

**04/06/2015**