

IN THE HIGH COURT OF FIJI
AT LAUTOKA
CIVIL JURISDICTION

CIVIL ACTION NO. HBC 138 OF 2018

BETWEEN : **OLOOLO GANGA MATA TEMPLE** of Sigatoka.
FIRST PLAINTIFF

: **UMESH PRASAD** of Oloolo, Sigatoka, Taxi Driver.
SECOND PLAINTIFF

: **YOGEN RAJU** of Olosara, Sigatoka, Self-employed.
THIRD PLAINTIFF

AND : **SOHAN PRASAD** of Oloolo, Sigatoka, Businessman.
FIRST DEFENDANT

: **CHANDRA SEN** of Oloolo, Sigatoka, Carpenter.
SECOND DEFENDANT

: **MURGESAN** of Oloolo, Sigatoka, Farmer.
THIRD DEFENDANT

Appearances : Mr J. Vulakouvaki for the plaintiffs
No appearance for the defendants

Date of Hearing: 5 July 2018

Date of Ruling : 5 July 2018

R U L I N G

[*Ex parte* Interim Injunction]

[01] This is an *ex-parte* application seeking an interim injunction to stop and/or cancel a meeting scheduled to be held on Sunday, 8 July 2018. The application is supported by an affidavit of Umesh Prasad, the second plaintiff. The affidavit annexes four documents marked as "A"- "D".

[02] The application is made pursuant to Order 29 of the High Court Rules 1988 ('HCR'). That rule provides:

Application for injunction (O 29, R1)

"1.-(1) An application for the grant of an injunction may be made by any party to a cause or matter before or after the trial of the cause or matter, whether or not a claim for the injunction was included in that party's writ, originating summons, counterclaim or third party notice, as the case may be.

(2) Where the applicant is the plaintiff and the case is one of urgency and the delay caused by proceeding in the ordinary way would entail irreparable or serious mischief such application may be made ex parte on affidavit but except as aforesaid such application must be made by notice of motion or summons.

(3) The plaintiff may not make such an application before the issue of the writ or originating summons by which the cause or matter is to be begun except where the case is one of urgency, and in that case the injunction applied for may be granted on terms providing for the issue of the writ or summons and such other terms, if any, as the Court thinks fit."

[03] The plaintiffs state on affidavit that: they are the appointed Trustees of the Temple. They were duly selected at the AGM held on 4 June 2013. The plaintiffs allege that the defendants, acting on appointment as Trustees made in 2003 AGM, have called for a meeting on 8 July 2018 without the approval of the duly appointed Trustees, the second and the third plaintiffs. According to the plaintiffs, if the meeting were allowed to be held, their interest, as well as other members of the Temple, would be prejudicial.

[04] The meeting, it appears, is scheduled without proper public notice and it is not clear what the meeting is for.

- [05] Mr Vulakouvaki of counsel for the plaintiffs submits that the defendants have no right to hold the meeting, and their intension is to take possession of the bank book and the minute book of the Temple, the first plaintiff.
- [06] It will be noted that the plaintiffs do not provide an undertaking as to damages. The court has discretion to grant an interim injunction without requiring or to require either security or the payment of money into court to fortify the undertaking. The plaintiffs agree to deposit the sum of \$5,000.00 into court as security for damages.
- [07] It was also noted that the plaintiffs had failed to annex a vital document namely the 2013 AGM Minutes, which shows the appointment of the plaintiffs as the Trustees of the Temple. Mr Vulakouvaki undertakes to file a supplementary affidavit providing further details attaching the 2013 AGM Minutes.
- [08] I have carefully considered the application, the evidence on affidavit and the submissions advanced in court by counsel for the plaintiffs. I have also perused the Minutes of the 2013 AGM, which clearly shows the second and the third plaintiffs are appointed Trustees of the Temple. I am satisfied that the case is one of urgency in the matter and the delay caused by proceeding in the ordinary way would entail irreparable mischief to the plaintiffs as well as to the members of the Temple if the meeting is not stopped. I would, therefore, issue an interim injunction as prayed for in (i), (ii) & (iii) of the application. The interim injunction is issued on the conditions that:
- i. The plaintiffs will deposit the sum of \$5,000.00 into court as security for damages.
 - ii. The plaintiffs must file a supplementary affidavit before the close of business tomorrow 6 July 2018.
- [09] The plaintiffs shall forthwith serve this order on the defendants together with all the documents. The matter is now adjourned for a further hearing at 9.30 am on 19 July 2018.

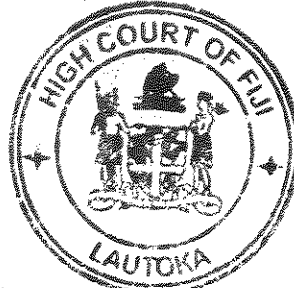
The Result

1. *Ex parte* interim injunction granted.
2. The matter is adjourned for a further hearing at 9.30 am on 19 July 2018.

M.H. Mohamed Ajmeer
5/7/18

M.H. Mohamed Ajmeer

JUDGE



At Lautoka

5 July 2018

Solicitors

For the applicants/plaintiffs: M/s Jiten Reddy Lawyers, Barristers & Solicitors