

IN THE HIGH COURT OF FIJI  
AT SUVA  
PROBATE JURISDICTION

P 56025 of 2014

IN THE ESTATE OF MOHAMMED KUTTY JNR  
also known as MOHAMMED KUTTY JUNIOR, also  
known as MOHAMMED KUTTY JR of Field 40,  
Lautoka in the Republic of Fiji Islands, Businessman,  
Deceased, Intestate.

BEFORE : Master Vishwa Datt Sharma

COUNSELS : Ms. Nair. J. - for the Applicant  
Ms. Kabaroro. L. - for the Respondent

DATE OF RULING: Friday, 03<sup>rd</sup> August, 2018 @ 10 am

RULING

*[That leave be granted to Keshni Lata Krishna to take out a Letters of Administration limited Grant in the Estate of Mohammed Kutty Jnr. Pursuant to section 7 (b) of the Succession Probate and Administration Act Cap 60]*

**A. INTRODUCTION**

1. On 28<sup>th</sup> October, 2014, the Applicant filed a Notice of Motion together with An Affidavit in Support and sought for the following orders-
  - (a) *That leave be granted to Keshni Lata Krishna of Field 40, Lautoka to take out Letters of Administration limited Grant in the Estate of Mohammed Kutty Jnr aka Mohammed Kutty Junior, aka Mohammed Kutty Jr.*
2. This application is made pursuant to *section 7 (b) of the Succession Probate and Administration Act Cap 60.*
3. The Caveatee, Sheik Ali Sahib, father of the Deceased *opposed this application.*

**B. THE LAW**

*"Persons entitled to grant"*

4. *Section 7 (b) of the Succession Probate and Administration Act states as follows-*

*"7. The court may grant administration of the estate of a person dying intestate to the following persons (separately or conjointly) being not less than 21 years of age-*

*(a) .....*

*(b) if there is no husband or wife, to one or more of the next of kin in order of priority of entitlement under this Act in the distribution of the estate of the deceased; or*

*(c) .....*

**C. ANALYSIS and DETERMINATION**

5. The issue for this court to determine is *'Whether leave be granted to Keshni Lata Krishna of Field 40, Lautoka to take out Letters of Administration limited Grant in the Estate of Mohammed Kutty Jnr aka Mohammed Kutty Junior, aka Mohammed Kutty Jr. ?*
6. The parties to this Probate proceedings filed in their respective written submissions and argued the pending application for determination by court.
7. The court adjourned the matter for delivery of the Ruling and made reference to *Order 59 Rule 2 (j) of High Court Rules, 1988*, which provides as follows-

*"The Master shall have and exercise all the power, authority and Jurisdiction which may be exercised by a Judge in relation to (j) grants of Probate and Letters of Administration, where uncontested."*


8. The current action before this court is a **contentious** one and therefore Master did not have the Jurisdiction to hear and determine the application.
9. In the above circumstances, I have no alternative but to remit this file to the Senior Court Officer to allocate this case proceedings to a Hon. Judge for determination.
10. Parties will be informed of the date and allocation once the same is carried out by the SCO, Accordingly.

**D. ORDERS**

- (i) The File is now remitted to the SCO High Court to for allocation to a Hon. Judge of the High Court.
- (ii) Parties to be informed of the date and the allocation accordingly.

DATED AT SUVA THIS 03<sup>RD</sup> DAY OF AUGUST 2018



  
.....  
MASTER  
VISHWA DATT SHARMA

cc: P & N Lawyers, Nadi  
KOYAS, Nadi