IN THE HIGH COURT OF FIJI
WESTERN DIVISION 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

: CHANDAR SEN of Oloolo, Sigatoka, Carpenter.
SECOND DEFENDANT

: MURGESAN of Oloolo, Sigatoka, Farmer.
THIRD DEFENDANT

Appearances : Mr J. Vulakouvaki for the plaintiffs
Mr A. Chand for the defendants
Date of Hearing : 22 February 2019
Date of Ruling : 22 February 2019

RULING

[01] This is an application filed by the plaintiffs seeking to vacate the election that was conducted on 17 February 2019, in the presence of the court officers and

counsel representing the parties. The election was conducted by the order of the Court made on 31 January 2019. The court ordered that:

1. *"The defendants shall convene a Special Annual General Meeting of Oloolo Ganga Mata Temple and carry out Elections for Committees and Trustees within 21 days of this ruling.*
2. *The plaintiffs shall not interfere in any manner or whatsoever way with the Special Annual General Meeting and the Elections to be held and conducted apart from participating in the Elections.*
3. *Sigatoka Police is to be present at the election venue to provide security and safety.*
4. *A police officer from Sigatoka Police Station is to be present during the election near the ballot box and during the counting time to see that no dispute and cheating is carried out.*
5. *All paid up members whether paid $2.00 or $20.00 will be members of the Temple and they will be eligible to vote at the AGM to be convened and conducted by this order.*
6. *The AGM of the Temple shall be convened and conducted under the supervision of the Deputy Registrar, Senior Court Officer and a Clerk of the Court.*
7. *There shall be no order as to costs."*

[02] In support of the application, the plaintiffs filed an affidavit of Mr Umesh Prasad the second named plaintiff sworn on 19 February 2019.

[03] The application is made under O 17, R 6 of the High Court Rules 1988, as amended (*'HCR'*) and the inherent jurisdiction of the Court. Rule 6, in my opinion, has no relevance to this application. That rule falls under interpleader proceedings. In terms of that rule, where a defendant to an action applies for relief under this Order (O 17) in the action, the court may by order stay all further proceedings in the action. The current application is made by the plaintiffs. Therefore, Rule 6 has no application to this application.

[04] The crux of the complaint of the plaintiffs is that the election was not conducted in a proper manner where some of the members were not allowed to vote. Therefore, they seek an order declaring the election null and void.

[05] Last time, the election was conducted, by the consent order of the court, under the supervision of the District Officer was disturbed by the plaintiff on the issue of membership. This time the plaintiffs seek the election that was conducted under the supervision of the Court officers for the second time be made null and void on the ground that some of the members were not allowed to vote at the election. The plaintiffs have annexed to their affidavit their own list of membership which include some iTaukei and Muslim members. Obviously, it appears to me that the plaintiffs hurriedly added some of the members after the declaration of the election. The ballot papers were prepared according to the existing list of members (submitted by the defendants in court along with their affidavit filed earlier in the proceedings). The court officers were correct in refusing to allow such new members added by the plaintiffs for the purpose of election.

[06] Before me, I have a report prepared by the Court officers who were present at the election. Their report states that all the members who were on the list of membership were allowed to vote and that the plaintiffs behaved badly and disturbed the election process.

[07] It appears that the plaintiffs are not interested to have the election soon because they are in the process of introducing new members and they are not ready to face the election. Therefore, I place no reliance on the affidavit evidence adduced by the plaintiffs in support of their application.

[08] I find the application is baseless. I accordingly reject their application and order the election process must go ahead and count the votes cast at the election held under the supervision of the court officers. The police were aiding them in that process. The court officers had brought the ballot box securely to the court and kept it under safe custody.

[09] The court officers had brought the ballot box safely and securely to court. The ballot box will be opened in open court and counted and the result will be announced accordingly. (The ballot box was brought to open court. I found it was padlocked and intact. It was opened in open court in the presence of the parties and their counsel). I adjourned the court until counting process to be completed.

[10] Mr Chand of counsel for the defendants seeks costs for appearing in court for this application in the sum of $7,500.00. He submits he has come all the way from Suva. The election has been disturbed by the plaintiffs for the second time and last time the defendants did not ask for costs. Having considered all, I order the plaintiffs to pay the sum of $3,500 as costs to the defendants.

[11] The court resumed at 7.20 p.m. again after the counting process was completed. The court officers counted the votes cast to the election held on 17 February 2019. The counting took place in the presence of the parties and their counsel. The result tendered in court was as follows:

Official Results of the 2019 Elections for Committees and Trustees for Oloolo Ganga Mata Temple

Position	Candidates	Votes for the Candidates	Invalid Votes	Total Votes Cast	Percentage (%)
President	Log Nadan	81	0	120	67.5
	Umesh Prasad	39	0	120	32.5
Vice President 1	Navin Nischal	87	2	120	72.5
	Sanjay Kumar	41	0	120	34.2
Vice President 2	Gangaiya Naidu	83	0	120	69.2
Secretary	Ravinesh Nair	75	2	120	62.5
	Sunny Narayan	43	0	120	35.8
Assistant Secretary	Abhimanu Kumar	78	0	120	65
	Kaushik Narayan	41	1	120	34.2
Treasurer	Krishan Nair	78	0	120	65
	Salesh Prakash	42	0	120	35
Assistant Treasurer	Ronil Raju	79	1	120	65.8
	Shaif Lal	40	0	120	33.3
Manager	Anil Kumar	78	0	120	65
	Yogendra Raju	42	0	120	35
Trustees	Sohan Prasad	74	0	120	61.7
	Murgesan Rao	76	0	120	63.3
	Chandar Sen	75	0	120	62.5
	Gangaiya (Maraiya)	41	0	120	34.2
	Surjeet Ram	41	0	120	34.2
	Sudesh Prasad	40	0	120	33.3
	Votes not cast (invalid)	**0**	**13**	**120**	**10.8**

[12] Based on the result of the election held on 19 February 2019, I declare the following individuals to be the Committees and Trustees for Oloolo Ganga Mata Temple:

1.	**President**	**: Mr Log Nadan**
2.	**Vice President 1**	**: Mr Navin Nischal**
3.	**Vice President 2**	**: Mr Gangaiya Naidu**
4.	**Secretary**	**: Mr Ravinesh Nair**
5.	**Assistant Secretary**	**: Mr Abhimanu Kumar**
6.	**Treasurer**	**: Mr Krishan Nair**
7.	**Assistant Treasurer**	**: Mr Ronil Raju**
8.	**Manager**	**: Anil Kumar**
9.	**Trustees**	**: Mr Sohan Prasad**
		: Mr Murgesan Rao
		: Mr Chandar Sen

[13] The elected Committees and Trustees will function as such until the next election to be held in accordance with the Temple's Constitution unless otherwise removed.

22/2/19

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M.H. Mohamed Ajmeer

JUDGE

HIGH COURT OF FIJI LAUTOKA

At Lautoka
22 February 2019

Solicitors:

For the plaintiffs: M/s. Jiten Reddy Lawyers, Barristers & Solicitors
For the defendants: M/s. Amrit Chand Lawyers, Barristers & Solicitors