

**IN THE HIGH COURT OF FIJI
AT SUVA
PROBATE DIVISION**

PROBATE ACTION NO.: HPP 19 of 2018

**IN THE ESTATE OF RAHAMAT ALI
SHAH** late of Lot 77 Kalokalo Crescent
Makoi, Nasinu in the Republic of Fiji,
Operator, Deceased Intestate.

APPEARANCES/REPRESENTATION

PLAINTIFF : Mr Dayal [Bale Law]
DEFENDANT : Ex-parte
RULING OF : Acting Master Ms Vandhana Lal
DELIVERED ON : 21 January 2019

JUDGMENT

[Leave For Grant To Administer The Estate]

1. The Applicant Ravneel Rohitesh Kumar seeks order for leave to apply for Letters of Administration in the Estate of Rahamat Ali Shah late of Lot 77 Kalokalo Crescent, Nasinu.
2. The Deceased is Applicant's step-father who was living in a de-facto relationship with his mother Son Kuar for 5 years and had left her and went to Ba.

The Applicant claims to have been looking after the Estate during and after the death of the deceased.

According to him, he has spent around \$120,000 in improvement of the property and built a 3 bedroom dwelling house on the Estate land which is a Housing Authority sub-lease.

He had obtained consent from the Nasinu Town Council to build the house and fence and is paying the ground rent, levies to Housing Authority and Nasinu Town Council.

His mother resides on the property. She is of age and he looks after her.

He wishes to take charge of the Estate and administer the same.

3. As per the Death Certificate the deceased was married. His spouse Aisha Bibi was living at the time of his death as at 1988.

He has 10 issues for the marriage all were living at the time of his death.

4. A search with the Probate Registry shows that there is nil record of any Probate or Letters of Administration for the Estate.
5. The deceased with Son Kuar had sub-leased a property from Housing Authority sometimes in 1986.

The Applicant now holds one undivided half share (being the interest of Son Kuar).

6. Despite Courts directive the Applicant has not submitted his Birth Certificate to this Court.
7. As per the Succession, Probate and Administration Amendment Act persons entitled to grant are:

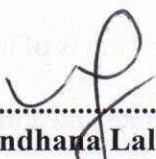
- a. *Wife, husband or de-facto; or*
- b. *If there is no wife or husband or de-facto to one or more if the next kin in order of priority of entitlement under the Act in the distribution of the Estate of the deceased; or*
- c. *Any other person, whether a creditor or not, if there is no person entitled to a grant under paragraph (a) and (b) resident within the jurisdiction and fit to be so entrusted or if the person entitled as aforesaid fails, when duly cited, to appear and apply for administration.*

8. With the legal wife and de-facto along with issues alive I do not find it proper that the application ought to be heard ex-parte and without a citation duly served on them.
9. As such the application for now shall fail and is dismissed.

Applicant is to have citation to accept or refuse grant duly issued and served on the legal wife, de-facto and issues of the deceased.

Thereafter he can make necessary application for leave for grant to administer the Estate.




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Vandhana Lal [Ms]
Acting Master
At Suva.