IN THE HIGH COURT OF FIJI
AT LABASA
CIVIL JURISDICTION
CIVIL ACTION NO. HBC 28 OF 2018

BETWEEN:	RADHA GOVINDA VEDIC CHARITABLE FOUNDATION		
		<u>PLAINTIFF</u>	
AND:	SOPHIA ANNA KUYT	1 ST DEFENDANT	
AND:	REGISTRAR OF TITLES		
		2 ND DEFENDANT	
Appearance: Plaintiff	- Ms. Somatua S		
Date of Hearing :	09.11 2020		
Date of Ruling :	13.11 2020		
	RULING		
This is Plaintiff's ex <i>parte</i> summons seeking an 'order for the interim injunction made <i>exparte</i> on 23.11.2018 by Savusavu Magistrate's Court Action'			
[2] Plaintiff had obtaine	Plaintiff had obtained an injection from this court restraining first Defendant from		

entering the property belonging to Plaintiff or removing and or interfering with any

property belonging to Plaintiff. This was an *ex parte* order obtained on 25.6.2018 and these orders were extended till final determination on 4.7.2018. First Defendant had filed statement of defence but never sought to remove the injunctive orders.

- [3] Plaintiff now through *ex parte* summons seeking to vacate *ex parte* injunctive orders obtained by Magistrate's Court exercising Family Law jurisdiction restraining dealings of CT 4517 and CT 4518.
- [4] The above two certificates of tile are the subject matter where this court had granted injunctive orders. Plaintiff was not a party to matrimonial action and it is a charitable foundation. First Defendant was one of the parties to matrimonial action. Plaintiff seeks to vacate *ex parte* orders granted by Magistrate's Court on 23.11.2018.
- [5] Any *ex parte* order granted without hearing a party, can be canvassed *inter partes* in the same court. Plaintiff being not a party to matrimonial action should not preclude them seeking vacation of *ex parte* injunctive orders granted by Magistrate's court as an aggrieved/interested party.
- [6] Higher court will not interfere with such *ex parte* decision until such an application is made to the court below even in an appeal.
- [7] In any event, this application is not an appeal, and made through *ex parte* summons. So it is struck off *in limine*.
- [8] Plaintiff had also sought restraining order against first Defendant from interfering with the sale of the properties in issue (i.e CT 4518 and CT4517). This cannot be granted due to two reasons, one being that already there is a caveats lodged by first Defendant regarding the said properties, it needs to be removed before such an order is to be considered. Next issue is the Magistrate's Court orders made on 23.11.2018 which

conflict with such order. Plaintiff needs to make appropriate application to relevant court for either removal of caveat and or variation of ex parte orders.

<u>Orders</u>

- a. Ex parte summons filed on 6/11/2020 struck off.
- b. No costs.

