

NUISANCE

7. Since December 2022, Trishna's top-floor flat has developed a faulty internal plumbing situation. This is causing a seepage through the floor which means that the occupants of the bottom floor units are experiencing a leakage through the ceiling or down the walls. Needless to say, this irritates and annoys them, especially the medical practice on the ground floor.
8. Naidu has been trying to fix the problem urgently. However, Trishna has been most uncooperative. She refuses to let Naidu's plumbers and staff into her flat.
9. On 02 January 2024, Trishna lodged a complaint of sexual harassment to Police against the plumbers. The police did not pursue the complaint. She continues to be vulgar and intimidating to Naidu and his staff as well as other tenants.
10. Meanwhile, the plumbing issues remain unfixed, and the nuisance continues. Naidu fears that the water will compromise the structural integrity of the building. He also fears losing his tenants.

COURT ORDERS – NADI MAGISTRATES COURT

11. On 19 January 2024, the Magistrates Court in Nadi granted various Orders against Trishna. These included an Order that Trishna allow unhindered access to her flat to Naidu's plumber and his assistant between the hours of 9.00 a.m. to 4.00 p.m. so that they can carry out remedial work.
12. These Orders were duly sealed and served on Trishna. However, she remained uncooperative.

COMMITAL PROCEEDINGS

13. On 07 February 2024, I granted leave to Naidu to apply for Committal Orders against Trishna. The next day, 08 February 2024, Naidu filed a Notice of Motion under Order 52 Rule 3(1). The returnable date given by the Registry was 19 February 2024.
14. On 19 February 2024, leave was extended and the matter was adjourned to 04 March 2024. Meanwhile, an affidavit of service of Ms. Senimelia Ana sworn on 27 February 2024 deposed that Trishna was duly served on 18 February 2024.

15. Trishna has never appeared in this Court. She never attended any Magistrates Court session either.

NAIDU'S SUBMISSIONS

16. I have read Naidu's submissions which were filed on 03 June 2024. The key points which are highlighted in these submissions are:
- (i) Trishna's non-compliance with Court Orders shows her flagrant disregard of the Court's authority.
 - (ii) Trishna has allowed an unsafe condition to escalate. She deliberately hinders all attempts to address and mitigate the hazards. She is a threat to the Occupational Health and Safety of all persons who regularly use the building. Her action (or non-action) disrupts the peaceful enjoyment of all lawful tenants.
 - (iii) Naidu is an Occupier. He has legal and moral obligations as such. Trishna's recalcitrance compromises Naidu's position and exposes him to potential legal liability.
17. Generally, a contempt arises whenever a party fails to comply with an Order of the Court. Civil contempt arises when a party fails to comply with an Order of the Court for the benefit of another party.
18. A civil contempt is meant to be remedial in nature. The aim is to enforce an Order or direction of the Court against the recalcitrant party.
19. I agree with the submission that Trishna decision to not appear in any Court proceeding in this Court and in the Court below is indicative of her choice not to contest any proceedings.
20. Naidu urges this Court to **“find [Trishma] guilty of contempt of court charges levelled against her”** and **“issue a committal order against [Trishna] to ensure compliance with the Orders and uphold the integrity of the judicial process”**.

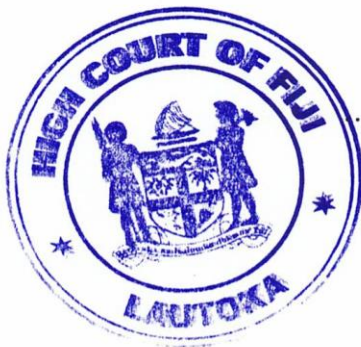
COMMENTS

21. There is urgency in this matter in light of the OHS risks which tenants and visitors are exposed to.

22. As a lawyer, Naidu is only too aware of his duty of care as Occupier. He is aware of the risks and has tried to act swiftly.
23. If Trishna may be directed to comply through other means, then an Order for committal should only be used as a last resort. On the other hand, I am mindful of the OHS risks which tenants and visitors are exposed to daily.

ORDERS

24. I find Ms. Trishma Joyshni Naidu guilty of contempt.
25. An Order of Committal is hereby issued against Ms. Trishma Joyshni Naidu on account of her deliberate non-compliance with the Orders of the Learned Magistrate dated 19 January 2024.
26. However, pursuant to Order 52 Rule 6 (1) of the High Court Rules 1988, I hereby direct that the said Committal Order be suspended for fourteen (14) days from the date of service of the sealed Order on Ms. Trishma Joyshni Naidu on the following condition:
- (i) that Ms. Trishma Joyshni Naidu should forthwith comply with the Orders of the Magistrates Court which were granted on 19 January 2024.
 - (ii) should Ms. Trishma Joyshni Naidu persist in disobeying the said Orders, Mr. Dorsami Naidu may apply to Court after fourteen (14) days from the date of service of these Orders



Anare Tuilevuka
JUDGE

12 June 2024