

IN THE HIGH COURT OF FIJI
AT SUVA
CIVIL JURISDICTION

Civil Action No: HBC 187 of 2024

BETWEEN: **FARM 2 U FRESH LIMITED** a limited liability company having its registered office at Lot 1 Nokonoko Road, Laucala Beach Estate, Nabua.

PLAINTIFF

AND: **TIVI WEST PTE LIMITED** a limited liability company having its registered office at Factory 8, Kalabu Tax Free zone, Daniva Road, Nasinu.

DEFENDANT

Representation: Mr A Pal (AP Legal) for the Plaintiff.

Date of Hearing: 3rd July 2024.

RULING

[1] The Plaintiff filed an Ex-parte originating summons seeking the following orders:

“1. The Defendant’s property comprised in iTaukei Lease No. 36364 being Lot 1 on SO 9438 containing an area of 113.54 hectares do stand charged with the payment of the judgment sum due from the Defendant to the Plaintiff as adjudged by the High Court in Civil Action No 335 of 2019, in the Judgment dated 28 February 2024 awarding the Plaintiff the following:

- a. The Defendant is ordered to pay the Plaintiff the sum of FJD [\\$]358,250.00 [(Eight Hundred Thirty-Five Thousand Two Hundred Fifty) Dollars].*
- b. Pre and post judgment interest at the rate of 8% per annum.*
- c. Costs to be taxed if not agreed.*

2. The Defendant attend court to show as to why the charge imposed in the proceeding order should not be made absolute.

3. Costs of the application.

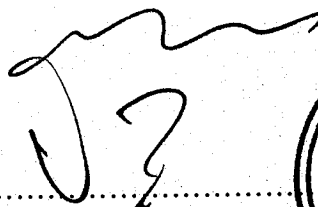
4. Any other orders Court deems just and fair”

The summons is accompanied by an affidavit in support of Zaina Dean. The Summons filed pursuant to Order 50 Rule 1 of the High Court Rules 1988.

- [2] This Court is empowered to impose a charging order by virtue of section 32 of the High Court Act 1875 and Order 50 rule 1 and 2 of the High Court Rules 1988. The effect of a charging order is to provide the Plaintiff with security, in whole or in part, over the property of the debtor. The property can be land or securities where judgment debtor has beneficial entitlement.
- [3] The affidavit in support of the summons avers that the judgment is on appeal, there is no stay on the execution of the judgment and the Plaintiff is entitled to the fruits of the judgment. Furthermore, the Defendant has failed to pay any part of the judgment sum and has failed to provide any satisfactory assurances to the Plaintiff on how the Defendant would pay the judgment sum. The Plaintiffs have searched and discovered that the Defendants are registered proprietors of an unencumbered *iTaukei Lease No. 36364 being Lot 1 on SO 9438 containing an area of 113.54 hectares.*
- [4] From the affidavit evidence I find that the judgment sum and costs remain unpaid and the Plaintiff is entitled to enforce the recovery of the judgment sums. The Plaintiff has provided the relevant Title search. It shows that the Defendant owns the said property. I am satisfied on the evidence provided that interim charging order be imposed on the said property being *iTaukei Lease No. 36364 being Lot 1 on SO 9438 containing an area of 113.54 hectares*, pending the show cause and any other determination of the Court. The Defendant is to attend Court on 24th July 2024 to show cause as to why the interim charging order should not be made absolute. The Plaintiff is to attend to service of the orders and the ex-parte originating summons and the affidavit in accordance with the rules of Court and to file an affidavit of service.

[5] **Court Orders:**

- (a) Interim charging order be imposed on the said property being *iTaukei Lease No. 36364 being Lot 1 on SO 9438 containing an area of 113.54 hectares*, pending the show cause and any other determination of the Court. *10*
- (b) The Defendant is to attend Court on 24th July 2024 to show cause as to why the interim charging order should not be made absolute. *1*
- (c) The Plaintiff is to attend to service of the orders and the ex-parte originating summons and the affidavit in accordance with the rules of Court and to file an affidavit of service.


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Chaitanya S.C.A. Lakshman
Puisne Judge
8th July 2024

