

IN THE HIGH COURT OF FIJI
AT SUVA
CENTRAL DIVISION
CIVIL (PROBATE) JURISDICTION

Civil Action No. HPP 69 of 2024

IN THE MATTER OF THE ESTATE OF VIKA SENIREWA late of Lot 54 Caqiri Road, Nasinu, in the Republic of Fiji, Deceased, Testate.

IN THE MATTER an application by **MALONI TUIKENATABUA** of Lot 54 Caqiri Road, Nasinu in the Republic of Fiji, Farmer, as the intended Administrator of the Estate of **VIKA SENIREWA aka VIKA VAKAREWA** pursuant to Section 6 (1) (h) of the Succession, Probate and Administration Act 1970.

BETWEEN:

MALONI TUIKENATABUA

APPLICANT PLAINTIFF

Date of Hearing : **17 July 2024**
For the Applicant/Plaintiff : **Mr Navunisaravi M.**
Date of Decision : **15 September 2024**
Before : **Waqainabete-Levaci, SLTT, Puisne Judge**

JUDGEMENT

(APPLICATION FOR LEAVE TO APPLY FOR LETTERS OF ADMINISTRATION)

PART A - BACKGROUND

1. By Originating Summons, the Applicant/Plaintiff is seeking Orders for Leave be granted to the Applicant, Maloni Tuikenatabua, to apply for the Letters of Administration of the Estate of Vika Senirewa aka Vika Vakarewa of Lot 56 Caqiri Road, Nasinu.
2. The Applicant deposes that he is the nephew of the late Vika Senirewa aka Vika Vakarewa and now seeks leave to lodge Letters of Administration.

PART B: AFFIDAVITS

3. In his Affidavit, the Applicant/Plaintiff deposes that as a child, he was brought up by the late Susana Rokosika, the only beneficiary and child of the Deceased, Vika Senirewa aka Vika Vakarewa, who's Estate he seeks to administer.
4. That the Applicant/Plaintiff is the son of the Timoci Naululevu, who is the son of Melaia Bai, the sister of the Deceased.
5. That his grand aunt, the later Vika Senirewa aka Vika Vakarewa had two siblings, Melaia Bai and Isireli Ravuli who is also deceased from a very young age.
6. The Deceased, Vika Senirewa aka Vika Vakarewa died on 26 August 1997 at Colonial War Memorial Hospital and the Deceased husband, Maloni Bole died on 5th May 2002 at Caqiri Road, Nasinu.
7. The sole issue of the Deceased namely Susana Rokosika died on 17 January 2023 at Colonial War Memorial Hospital, is the sole guardian of the Applicant/Plaintiff since his was a baby.
8. That since birth, the Applicant/Plaintiff has resided with the late Susana Rokosika and assisted in looking look after the Deceased and his grand uncle, the late Maloni Bole until their demise.

9. That at the time of the untimely death of his Aunty and guardian, the late Susana Rokosika, no probate had been obtained to give her Letters of Administration for the Estate of either her mother, Vika Senirewa aka Vika Vakarewa or her father, the late Maloni Bole.
10. The Applicant/Plaintiff now seeks leave to apply for Letters of Administration.

PART C: SUBMISSIONS

11. In their oral submissions, the Counsel seeks for leave to apply for Letters of Administration under section 6 (1) of the Probate, Succession and Administration Act. There are no living issues nor siblings of the Deceased. The sole living issue, had partly applied for Letters of Administration when she passed away.

PART D: LAW

12. Section 7 (1) (c) of the Succession, Probate and Administration Act, provides as follows:

“Persons entitled to grant

7. The court may grant administration of the estate of a person dying intestate to the following persons (separately or conjointly) being not less than 21 years of age-

(a) the husband or wife of the deceased; or

(b) if there is no husband or wife, to one or more of the next of kin in order of priority of entitlement under this 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 paragraphs (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.”

PART E: ANALYSIS

13. The Application before me falls under section 7 (c) of the Succession, Probate and Administration Act. The Applicant is a next of kin, however he does not fall within the ambit of subsection (a) and (b) of Section 7 pertaining to the order of priority of entitlement under the Act.
14. The Applicant/Plaintiff is young, fit and capable of administering the property of the Deceased.
15. There is no surviving husband, next of kin or sibling capable of administering the property of the Deceased properly.
16. The Applicant is also a resident in Fiji. He has deposed he was residing with and looked after by the late issue of the Deceased and is well versed with their family values and obligations.
17. Applicant/Plaintiff I find that he satisfies the conditions under section 7 (c) to give him leave to apply for Letters of Administration.


Orders of the Court:

18. **The Court orders as follows:**

(a) The Court grants leave for Maloni Tuikenatabua of Lot 54 Caqiri Road, Nasinu of Fiji, Farmer to apply for Letters of Administration of the Deceased namely Vika Senirewa aka Vika Vakarewa.

(b) Costs bourne by the Applicant/Plaintiff.




.....
Ms Senileba LTT Waqainabete-Levaci
Puisne Judge

