

**IN THE HIGH COURT OF FIJI**

**AT SUVA**

**CIVIL JURISDICTION**

**Civil Action No. HBC 321 of 2023**

**BETWEEN : BSP FINANCIAL GROUP LIMITED**

**Plaintiff**

**AND : RATU FILIMONE RALOGAIVAU aka FILIMONE  
RAMARAMA RALOGAIVAU**

**First Defendant**

**FANE RALOGAIVAU aka FANE MUANIVANUA  
RALOGAIVAU**

**Second Defendant**

**MANOA MALANI aka RARU MANOA MALANI**

**Third Defendant**

**VERONIKA MALANI aka VERONICA MALANI**

**Fourth Defendant**

**MAKERETA TUINAKELO**

**Fifth Defendant**

**BULOOU TUINAKELO**

**Sixth Defendant**

**MOSESE R**  
**Seventh Defendant**

**ORISE**  
**Eighth Defendant**

**Counsel** : **Ms S Devan for the Plaintiff**  
**Mr S Raikanikoda for the Defendants**

**Hearing** : **16 July 2025**

**Judgment** : **16 July 2025**

### **EX TEMPORE JUDGMENT**

**(on application by Defendants for a stay)**

[1] This proceeding commenced in October 2023 by way of an originating summons and supporting affidavit for the Plaintiff seeking vacant possession of a Flagstaff property.<sup>1</sup> The defendants had fallen into arrears on repayment of a loan from the Plaintiff. I granted the Plaintiff's application on 22 May 2025 and ordered the defendants to provide vacant possession within one month. On 19 June, a matter of days before the expiry of the 1 month period, the defendants filed the present application for a stay of the order.

[2] In the supporting affidavit, the defendants advised that they were seeking to refinance the debt through a loan from the Fiji Development Bank (FDB) and hoped to repay the debt to the Plaintiff through this new loan. Attached to the affidavit was a letter from FDB to the defendants' counsel dated 17 June 2025, confirming the fact of the application for a loan, an indication that it was being processed, and requesting that enforcement of my

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<sup>1</sup> Refer to [1] of my earlier decision in *BSP v Ralogaivau* [2025] Civil Case No. 321 of 2023 (22 May 2025).

decision of 22 May 2025 be placed on hold to allow FDB to complete its processing of the application.

- [3] On 8 July 2025, this matter was called before me for mention. I set the application for stay down for hearing for today and made directions in relation to the filing of affidavits. Mr Raikanikoda informed the Court that the defendants had received an offer of a loan from FDB and were expecting to sign the offer the next day.
- [4] On 14 July 2025, the Plaintiff filed an affidavit in opposition. The deponent from BSP deposed to the fact that the loan is currently at \$483,470.69, and incurring interest at 8.5% per annum.
- [5] At today's hearing, Mr Raikanikoda advised that the loan from FDB is in jeopardy because of, using the words from the Third and Fourth Defendants, 'political interference'. I am unsure what this means although the Third and Fourth Defendants have not suggested that the loan offer from FDB has been withdrawn. The defendants seek more time to secure their loan and refinance the debt on the Flagstaff property so that they may keep the property.
- [6] I cannot place any weight on the information provided at the hearing by the Third and Fourth Defendants. It is not sworn evidence and nor is it relevant to my decision on the application before me. It is clear that at this point in time, the defendants do not have a new loan arranged to refinance the debt currently owed to the Plaintiff.
- [7] Pursuant to Order 45, rule 10 of the High Court Rules 1988 the court has a discretion to grant a stay '*on the ground of matters which have occurred since the date of the judgment or order*'. It is a wide discretion available to the court. As Ms Devan points out, however, the court's powers do not exist in a vacuum. The power must be exercised judicially.

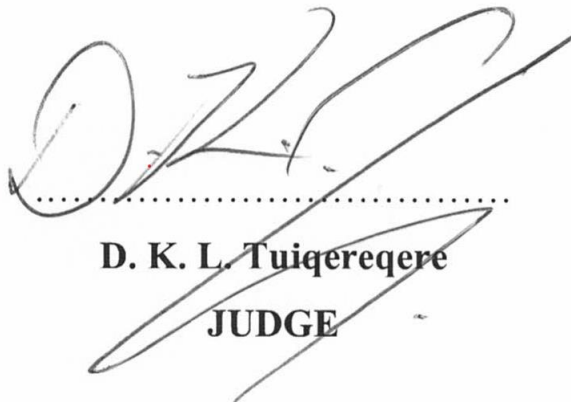
[8] I accept that there must be a proper basis for the court to grant a stay of the order made on 22 May 2025. The defendants have provided no basis whatsoever to support their application for a stay. Simply taking steps to refinance the debt after they have been ordered to vacate the property does not suffice. It is too late – such steps ought to have been taken earlier. The Plaintiff is entitled to the fruits of judgment.

[9] That said, I do see some practical benefit for both parties if the defendants are able to pay their debt to the Plaintiff through a new loan. That is not an opportunity for the defendants to delay (and potentially avoid) enforcement of the Court's order.

[10] My orders are as follows:

- i. The defendants' application for a stay is dismissed.
- ii. There will be no order as to costs although the defendants can consider themselves very fortunate.



  
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**D. K. L. Tuiqereqere**  
**JUDGE**

**Solicitors:**

Neel Shivam Lawyers for Plaintiff

Raikanikoda & Associates for defendants