

IN THE HIGH COURT OF FIJI

AT SUVA

CIVIL JURISDICTION

Civil Action No. HBC 172 of 2025

BETWEEN : MUNESH CHAND & ANUPA SINGH
Plaintiffs

AND : ILISAPECI TUNAMENA & OTHER ILLEGAL OCCUPANTS
Defendant

Counsel : Mr A Kumar for the Plaintiff
No appearance for the Defendant

Hearing : 30 July 2025

Judgment : 30 July 2025

EX TEMPORE JUDGMENT

(on an application for vacant possession)

[1] The Plaintiff seeks an order for vacant possession of its property described as ‘Native Lease No. 25120 on a piece of land described as Caubati Subdivision Stage 1, Lot 282, as shown, Lot 20 on SO 3947 in the province of Naitasiri with an area of 303

*hectares/square metres*¹ (**the property**). The Defendant is currently in possession of the property.

- [2] The Defendant has been served with the papers for this proceeding as well as (it appears) a notice of today's hearing. She has not attended. An affidavit of service has been filed attesting to service of the originating documents. The affidavit of service in relation to service of notice of today's hearing is incomplete. I have directed the Plaintiffs to file a proper affidavit of service by 1 August 2025 - the orders in this judgment are subject to the same.

Background

- [3] The Plaintiffs became the registered proprietors of the property in 2002. The Lease is annexed to the supporting affidavit of Munesh Chand sworn on 13 May 2025. On 1 March 2024, the Plaintiff entered into a tenancy agreement with the Defendant. The duration of the tenancy was 12 months. The Defendant agreed to pay a monthly rental of \$800.
- [4] By October 2024, it appears that the Defendant had fallen into arrears with her rental payments, and an eviction notice was delivered to the Defendant on 11 October 2024. The eviction notice, which is also annexed to Mr Chand's affidavit, indicates that the Defendant was at that time in arrears in the amount of \$1,600 and had also not paid the full bond, the amount of \$500 being due. By November 2024, the parties had arrived at an agreement by which the Defendant could continue with the tenancy. A letter was signed by both parties dated 11 November 2024. The Defendant was required to pay the outstanding rental arrears, at that stage being about \$2,400. The Defendant was also required to pay upcoming rental payments on time.
- [5] The Defendant remained in arrears. On 17 January 2025, the Plaintiffs wrote to the Defendant to advise that the Plaintiffs would not be renewing her tenancy agreement

¹ Plaintiffs' Originating Summons dated 13 May 2025.

beyond the date of the existing tenancy. The Plaintiffs subsequently obtained the legal assistance of the Legal Aid Commission, who, on 4 February 2025, sent an Eviction Notice to the Defendant, reminding her that she was in arrears of her rental payments and requiring her to vacate the property within a month.

- [6] The Defendant has not vacated the property. Hence, the Plaintiffs filed the present proceedings.

Decision

- [7] To be entitled to an order for vacant possession, the Plaintiffs must establish that they are the last registered proprietor of the property and provide, in the originating summons, a description of the land upon which the order for vacant possession is to be made.² Both requirements are satisfied here. The Lease for the property establishes the Plaintiffs have been the registered proprietors since 31 January 2002. The description of the property is contained in the Plaintiffs' originating summons.

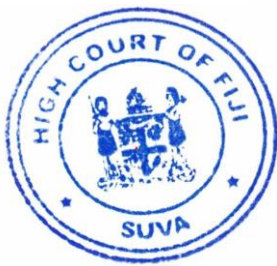
- [8] The onus shifts to the Defendant under s 172 of the Land Transfer Act to prove '*to the satisfaction of the judge a right to the possession of the land*'. The Defendant has not defended the claim and not put forward a basis for remaining in possession. Nevertheless, on the basis of the information available to the Court, I am satisfied that the only basis for the Defendant being in possession was the 2024 tenancy agreement which has now expired. As such, the Defendant has no legitimate right to continue to be in possession of the property.

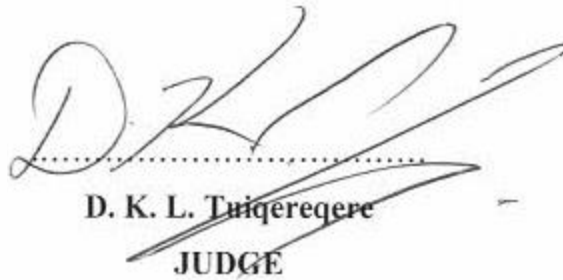
Orders

- [9] Accordingly, my orders are as follows (and again subject to the Plaintiffs filing a proper affidavit of service in relation to notice of today's hearing):

² Sections 169 and 170 of the Land Transfer Act 1971.

- i. The Plaintiff's application for vacant possession is granted.
- ii. The Defendant is to deliver vacant possession to the Plaintiffs by or before Monday 25 August 2025.
- iii. There will be no order as to costs.




D. K. L. Tuiqereqere
JUDGE

Solicitors:

Legal Aid Commission for the Plaintiffs