

**IN THE HIGH COURT OF FIJI
AT SUVA
PROBATE JURISDICTION**

Probate Action No. HPP 50 of 2024

BETWEEN: **RAM MUDALIER** of 12230-105 T NW, Edmonton, Alberta T5G 2N8,
Canada, Retired.

PLAINTIFF

AND: **MANOR MANI aka MANOR MANI MUDALIAR** of Nalovo, Nadi,
Fiji, Domestic Duties in her personal capacity and as sole Executrix and
Trustee in the ESTATE of BAL KRISHNA MUDALIAR aka
BALKRISHAN of Nalovo, Nadi, Fiji, Cultivator.

DEFENDANT

Representation:

Plaintiff: Ms. C. Nainima (Reddy Law)

Defendant: Mr. S. Nand (Nands Law)

Date of Hearing: 19th August 2025

Ruling

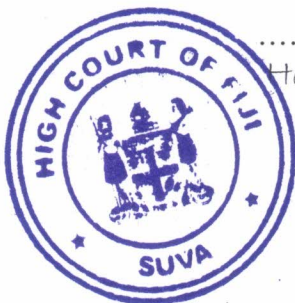
- [1] The Plaintiff is seeking an injunction against the Defendant and/or her servants and/or her agents from continuing to remove and transfer soil from the portion of /part/piece of land described in CT 7389 being Lot 9 on DP. 1541 containing 37 acres and 3 perches and enjoining the Defendant from alerting the property in any manner that would cause further harm or damage, pending the final determination of the proceedings. The Plaintiff is also seeking that the Defendant and/or her servants and/or her agents be restrained from transferring, dealing with, charging, mortgaging, assigning, disposing of any portion/part/piece of the said land.
- [2] The application is made pursuant to Order 29 of the High Court Rules and is supported by the Plaintiff's affidavit filed on 22nd April 2025. An affidavit in opposition of Sunil Krishna Mudaliar, the power of attorney holder of the Defendant was filed on 11th August 2025.
- [3] Both parties filed substantive materials on the issues. I have considered it all.
- [4] The principle to be applied in applications for interlocutory injunctions have been authoritatively explained by Lord Diplock in **American Cyanamid Co v. Ethicon Ltd [1975] A.C 396; [1975] 1 All E.R. 504 H.L.** They are summarised as follows:
 - (i) *The Plaintiff must establish that he has a good arguable claim to the right he seeks to protect;*

- (ii) *The Court must not attempt to decide this claim on the affidavits; it is enough if the Plaintiff shows that there is a serious question to be tried.*
- (iii) *If the Plaintiff satisfies these tests, the grant or refusal of an injunction is a matter for the exercise of the court's discretion on the balance of convenience.*

- [5] The Plaintiff in this matter is claiming fraud of his late mothers (Gangamma Mudaliar) will by his late brother, Bal Krishna Mudaliar. Later, Bal Krishna Mudaliar made a will giving shares in the property to his siblings, wife and children in the property. This will was subsequently changed. The new will left everything to the Defendant.
- [6] The Defendants position is that Gangamma Mudaliar voluntarily transferred her shares in property to Bal Krishna Mudaliar. The Plaintiff's allegations of fraud, undue influence, and lack of capacity are baseless. According to the Defendants they have maintained status quo since probate was granted. They further state that no excavation or unauthorized dealings have occurred.
- [7] In this matter the onus is on the Plaintiff at trial to prove the issues that he is raising. According to the Defendant they have not carried out any excavation or dealing with the property. It is in both the parties' interest that an injunction be issued to preserve and protect the property while the matter is finalized. For that reason an injunction is issued.

Court Orders

- (a) *An injunction against the Defendant and/or her servants and/or her agents from removing and transferring soil from the portion of /part/piece of land described in CT 7389 being Lot 9 on DP. 1541 containing 37 acres and 3 pending the final determination of the proceedings.*
- (b) *An injunction against the Defendant and/or her servants and/or her agents from transferring, dealing with, charging, mortgaging, assigning, disposing of any portion/part/piece of the said land (CT 7389 being Lot 9 on DP. 1541 containing 37 acres and 3 perches)*
- (c) *No Orders as to costs.*



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Hon Justice C.S.C.A Lakshman

Puisne Judge

26th September 2025