

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

**Civil Action NO. HBC 220 of 2025**

**BETWEEN:**            **ETHAN CHRISTOPHER PENE MULI'AKA'AKA BRYSON** of  
Block 9 Flat 2, PRB Flats, Raiwaqa, Suva. Student.

**PLAINTIFF**

**AND:**                    **REGISTRAR OF BIRTHS, DEATHS AND MARRIAGES**

**1<sup>st</sup> DEFENDANT**

**AND:**                    **OFFICE OF ATTORNEY GENERAL**

**2<sup>nd</sup> DEFENDANT**

**Appearances:**

**Plaintiff:** Mr. V. Faktaufon (Vama Law)

**Defendants:** Mr. V. Ram and J. Chand (Office of the Attorney General)

**Date of Hearing:** 2<sup>nd</sup> October 2025.

**Decision**

**A. Introduction**

[1] The Plaintiff filed originating summons seeking to amend his father's name from Andrew Warren Bryson to Morgan Sualauvi Tuimaleali'ifano. He also seeks a declaration that Morgan Sualauvi Tuimaleali'ifano is his legitimate and biological father. He further seeks that the Registrar of Births, Deaths and Marriages amend and correct the original birth certificate by removing the name of Andrew Warren Bryson and inserting Morgan Sualauvi Tuimaleali'ifano, in his birth certificate. His affidavit supports the originating summons.

[2] An affidavit in response of Makereta Sotutu, Acting Registrar-General was filed. An affidavit in reply of the Plaintiff was subsequently filed.

**B. Submissions**

[3] For the Plaintiff, his lawyer stated that the law does not provide for the orders they are seeking. His other argument is that the Court has inherent jurisdiction to grant the orders they are seeking.

[4] The Defendants argument is that Plaintiffs have not relied on any provisions of the law which allows this court to make an order to amend the Plaintiff's fathers name nor there

are any express provisions in the Births, Deaths and Marriage Act to allow for the amendments that is being sought.

### C. Determination

[5] It is evident from the submissions for both the parties that there is no law dealing with the orders that is being sought by the Plaintiff. In the absence of any statutory provisions to assist the Plaintiff, the Plaintiff has gone on to state that the Court has inherent jurisdiction to grant the orders that he is seeking. We shall now look at inherent jurisdiction.

[6] Section 100 (3) of the Constitution of Republic of Fiji gives the High Court “...unlimited original jurisdiction to hear and determine any civil or criminal proceedings under any law and such other original jurisdiction as is conferred on it under this Constitution or any written law.” The High Court has inherent jurisdiction. Which means that it has fundamental authority to hear and determine any matter before it, particularly in cases where no specific authority exists.

[7] Inherent jurisdiction is described in the **Halsbury's Laws of England**, Civil Procedure (Volume 11 (2020), paras 1–496; Volume 12 (2020), paras 497–1206; Volume 12A (2020), paras 1207–1740), Civil Procedural Law: Sources and Framework and Sources of Civil Procedural Law, as:

*“Unlike all other branches of law, except perhaps criminal procedure, there is a source of law which is peculiar and special to civil procedural law and is commonly called the 'inherent jurisdiction of the court'. In the ordinary way, the Supreme Court, Court of Appeal, and the High Court, are superior courts and as such no matter is deemed to be beyond their jurisdiction (including the general administration of justice within their territorial limits, and powers in all matters of substantive law) unless it is expressly shown to be so. The County Court, although an inferior court, also has an inherent jurisdiction to regulate its own procedures, provided that the exercise of this power is not inconsistent with statute or statutory rules.*

*The jurisdiction of the court which is comprised within the term 'inherent' is that which enables it to fulfil, properly and effectively, its role as a court of law. However, the term 'inherent jurisdiction' is not used in contradistinction to the jurisdiction of the court exercisable at common law or conferred on it by statute or rules of court, and a claim should be dealt with in accordance with the rules of court rather than by exercising the court's inherent jurisdiction where the subject matter of the claim is governed by those rules. Even in an area which is not the subject of statute or statutory procedural rules, the court's inherent jurisdiction to regulate how proceedings should be conducted is limited because (subject to certain established and limited exceptions) the court cannot exercise its power in such a way as will deny parties their fundamental common law right to participate in the proceedings in accordance with the common law principles of natural justice and open justice.*

*In sum, it may be said that the inherent jurisdiction of the court is a virile and viable doctrine, and has been defined as being the reserve or fund of powers, a residual source of powers, which the court may draw upon as necessary whenever it is just or equitable to do so, in particular to ensure the observance of the due process of law, to prevent vexation or oppression, to do justice between the parties and to secure a fair trial between them."*

- [8] The phrase, *'the inherent jurisdiction of the High Court'* is mostly used in ways which suggest that the inherent jurisdiction is a single source of jurisdiction. It is to be noted that the inherent jurisdiction of the High Court is better understood as comprising of a number of separate jurisdictions, which have developed piecemeal and mostly in isolation. The following outline some of the 'categories' of the inherent jurisdiction: *parens patriae*, punishment for contempt of court, judicial review and jurisdiction over officers of the Court. The origin and scope of these categories is relatively straightforward.
- [9] The High Court's *parens patriae* jurisdiction is derived from the right and duty of the Crown/State as *parens patriae* 'to take care of those who are not able to take care of themselves'- principally persons of unsound mind and children.
- [10] The earliest legal history shows that courts have assumed the power to punish those who obstruct the administration of justice. From about 1250 onwards, the Rolls and Year Books contain references to contempt of court.
- [11] Judicial review is the exercise of the High Court's inherent jurisdiction to rule on the legality of public acts. The High Court inherited its review jurisdiction under the *Supreme Court Ordinances* of 1841 and 1844. Over the centuries, the superior courts in England developed a review jurisdiction. The jurisdiction enabled the King's courts to keep all lesser jurisdictions within their legal bounds, and to provide subjects with a remedy if tribunals or officials exceeded their legal authority or made orders contrary to law.
- [12] The High Court has an inherent summary jurisdiction over its officers. The jurisdiction is based on the right of the Court to insist and require that its officers observe a high standard of conduct. The purpose is not to define or enforce rights between parties, but to punish and discipline. The Court may exercise its summary disciplinary jurisdiction, for example, when a solicitor fails to honour a personal undertaking, made in his or her professional capacity, to do an act which is in his or her power to do.
- [13] Section 28 of the Births, Death and Marriage Act deals with correction of errors in registers. The Plaintiff's application seeks to alter information in the birth certificate. It does not seek to correct an error. The statute does not allow what is being sought by the Plaintiff. The Plaintiff through submission on inherent jurisdiction of the court is seeking to override and expand statutory powers. Inherent jurisdiction so developed is not for such situations as is being sought by the Plaintiff to change his father's name in his birth certificate. The exercise of inherent jurisdiction is not one which should depart from statutory laws and create powers beyond the statutory laws. Inherent jurisdiction is not a limitless concept. I am cautious and do not see any reason to extend the scope of inherent jurisdiction to cover the situation brought about by the Plaintiff. What is

being asked of me through the exercise of the inherent jurisdiction would amount to invention of powers and doctrine rather than extension.

[14] I do not find that in this situation inherent jurisdiction sought to be exercised is necessary, is aimed at avoiding injustice and or exist in the absence of explicit statutory provisions. Inherent jurisdiction involves the exercise of judicial discretion. The rule of law can and does act as a limit; requiring any exercise or expansion of the inherent jurisdiction to conform with established legal principles.

[15] Having considered everything I dismiss the originating summons. Taking all the circumstances of this matter, there will be no costs.

### **Court Orders**

- (a) The Originating Summons is dismissed.
- (b) I make no order for costs.

  
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Hon Justice Chaitanya S. C. A. Lakshman  
**Puisne Judge**



9<sup>th</sup> October 2025