

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

**PROBATE JURISDICTION**

**Probate Action No. HPP 79 of 2021**

**IN THE MATTER OF THE ESTATE OF  
BHARTI KUMAR** of Lot 2 Nadawa Dadakulaci  
Road, Nadawa, Nasinu Deceased, Intestate.

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**BETWEEN:**            **SURYA NARAYAN PANDE** of Lot 7 Bhikabhai Place,  
Laucala Beach Estate, Suva in the Republic of Fiji,  
Businesswoman

**FIRST PLAINTIFF**

**AND:**                    **LINA LIANSHIKA NARAYAN** Valelevu, Nasinu, Minor  
represented by her father **SURYA NARAYAN PANDE** of  
Valelevu, Nasinu, businessman, as her Next Friend and  
Guardian Ad Litem for the purpose of conducting the cause  
herein

**SECOND PLAINTIFF**

**AND:**                    **ROPAL RASHKA KUMAR** of Lot 2 Dadakulaci Road,  
Nadawa, Nasinu, Businesswoman as the **ADMINISTRATOR  
OF THE ESTATE OF BHARTI KUMARI**

**FIRST DEFENDANT**

**AND:**                    **RAVINDRA NARAYAN** of Laucala Beach Estate, Nasinu,  
Police Officer and **ASHWIN SINGH** of Lot 76 Daniva Road,  
Valelevu, Nasinu, Self Employed

**SECODN DEFENDANT**

**AND:**                    **MOHAMMED ZAMIR KHAN** of Lot 2 Dadakulaci Road,  
Nadawa, Nasinu, Businessman

**For the Plaintiff:     Mr. Kumar. S**

**For the Defendant:   No appearance**

**Date of Hearing:        27<sup>th</sup> August 2025**

**Date of Ruling:        3<sup>rd</sup> December 2025**

## **RULING ON ORIGINATING SUMMONS (Undefended Hearing)**

1. This action was instituted by Writ of Summons issued on the 15<sup>th</sup> of November 2021.
2. The Writ was indorsed pursuant to Order 76 Rule 2 (a) of the High Court rules 1988, as follows: -
  - i. The first Plaintiff is the de facto partner of the late **Bharti Kumar** of Lot 2 Nadawa, Dadakulaci Road, Nadawa, Nasinu in the Republic of Fiji.
  - ii. The second Plaintiff is the biological daughter of Bharti Kumar and the first Plaintiff.
  - iii. The Plaintiffs are the beneficiaries of the Estate of Bharti pursuant to section 6 of the Succession Probate and Administration Act.
  - iv. Bharti Kumar died intestate.
  - v. The First Defendant is the Administrator of the Estate of Bharti Kumar.
  - vi. The Second Defendant are the sureties of the First Defendant.
  - vii. The First Defendant transferred the Estate property comprised in Housing Authority Lease Number 442040 onto her name and subsequently sold the property keeping the proceeds of the sale to herself.
  - viii. The First Defendant breached her duties towards the Estate and the Plaintiffs.
  - ix. The Third Defendant is the husband of the First Defendant acted in cahoots with the First Defendant to deny the Plaintiffs their entitlements.
  - x. The Plaintiffs claim entitlements pursuant to section 6 of the Succession Probate and Administration Act, specifically proceeds of the sale of the property.
  - xi. The Writ has been produced to the Registrar for Examination.

3. In addition to the Writ, the Plaintiffs also filed a Summons dated 15<sup>th</sup> November 2021 seeking the following orders: -
  - a) The time for service of this Summons be abridged and this Summons be made returnable instanter.
  - b) An Order that the First Defendant deposit into Court the sum of FJD \$61, 667.67 (sixty one thousand six hundred sixty seven dollars sixty seven cents.)
  - c) The costs of this application be in the cause.
  - d) Any other order that this Honourable Court deems fair and just.
4. On the 10<sup>th</sup> February 2022 the Court made the following orders: -
  - a) The 1<sup>st</sup> Defendant is ordered to deposit FJD \$61, 667.67 (sixty one thousand dollars six hundred and sixty seven dollars sixty seven cents) into Court pending the determination of this action.
  - b) Costs of this application be in the cause.
  - c) The matter is adjourned to 16 March 2022 at 9am for mention.
5. To date this order has not been complied with, no monies have been deposited in Court by the Defendants.
6. The Defendants filed a Motion to vary the orders made by the Court on the 10<sup>th</sup> of February 2022.
7. On the 9<sup>th</sup> of September 2022, Justice Nanayakkara refused the Defendant's application to vary the orders made already.

8. The Plaintiffs have attempted to institute contempt proceedings against the 1<sup>st</sup> Defendant but this has not proceeded so far and all of the Defendants have stopped attending Court.
9. Counsel for the 1<sup>st</sup> Defendants have also sought leave to withdraw their appearance as counsel on record. Counsel filed Summons to formally withdraw as counsel on record for the Defendants.
10. They were directed to serve the Defendants and they were further given permission to attend to service by substituted means, by advertising in the daily newspaper.
11. The affidavit of substituted service was filed on the 9<sup>th</sup> of April 2025 and at that stage the Defendants had all stopped appearing.
12. The Plaintiffs through counsel have now sought to be heard on their application to compel the second Defendants as sureties for the 1<sup>st</sup> Defendant to meet the orders already made by this Court on the 10<sup>th</sup> of February 2022.
13. The Court adjourned the matter to the 27<sup>th</sup> of August 2025 for the undefended hearing.
14. At the hearing, counsel for the Plaintiffs submitted written submissions and submitted oral submissions.
15. The Plaintiffs submit that this Court has already ruled that the 1<sup>st</sup> Defendant must deposit into Court the sum of \$67, 667.67 pending the final determination of this matter.
16. The first Defendant has failed to comply and the Plaintiffs now seek that the said orders be enforced against the 2<sup>nd</sup> Defendants, who are the sureties of the Estate, pursuant to the Letters of Administration.
17. The 2<sup>nd</sup> Defendants have admitted in the Statement of Defence that they are the sureties and are responsible for the administration of the Estate (at paragraph 5 of the Statement of Defence.)

18. The Plaintiffs identify the following issues before the Court: -

- i. Whether the 2nd Defendants as sureties to the Letter of Administration be held liable for the 1st Defendant's failure to comply with her fiduciary duties?
- ii. Whether the sureties are liable for the Administrator's non-compliance of the Court order issued on 10 February 2022?

19. The relevant law include Order 29 Rule 2 part 3, which provides: -

“29 (2) (3) Where the right of any party to a specific fund is in dispute in a cause or matter, the Court may, on the application of a party to the cause or matter, order the fund to be paid into court or otherwise secured.”

20. The Succession Probate and Administration Act, section 20 provides as follows: -

*“Bond to be executed*

20 (1) Subject to the provisions of subsection (2) every person to whom administration is granted shall, previous to the issue of such administration, execute in the form prescribed by the rules, a bond, with one or 2 sureties conditioned for duly collecting, getting in, administering and distributing the real and personal estate of the deceased.”

21. The Plaintiffs rely on the following case authorities: -

- i. In the Estate of Sesha Reddy [2022] FJHC 404
- ii. In the Goods of Richardson (1873) L.R. 2. P&D 244

22. Tristram and Coote's Probate Practice (31st edition) defines the duty of sureties as follows: -

“The sureties undertake to be answerable for the due administration of estate by the administrator, and their liability is joint and several. If the administrator fails in his duty, the sureties may be called upon to make good any loss occasioned by the breach.”

23. The Plaintiffs submit that the role of the surety is not just symbolic, it carries real consequences if the administrator does not meet their obligations.

24. This case demonstrates the importance of a surety as the administrator of the Estate has failed to comply with her fiduciary duties, then subsequently failed to comply with the specific orders of the Court, resulting in financial loss and procedural prejudice to the Plaintiffs.

25. The surety bond, having been executed to secure compliance, now serves as the statutory mechanism through which the sureties should be held liable to remedy the non-compliance of the 1st Defendant.

### Analysis

26. The Succession, Probate and Administration Act defines a surety as "...where the context requires, a person providing a guarantee or other security accepted by the Court."

27. The two 2<sup>nd</sup> Defendants have admitted that they are the sureties for the Administrator of the Estate of the late Bharti Singh, Ropal Rashika Kumar.

28. They all executed an Administration Bond promising as follows: -

"Know all Men by these Presents that We (I) are jointly and severally bound unto the Chief Registrar of the Supreme Court of Fiji in the sum of \_\_\_, for the payment of which to the said Chief Registrar we bind ourselves and each of us and our (3)."

29. Section 20 of the Succession Probate and Administration Act provides for sureties as follows: -

#### *"Bond to be executed"*

20.-(1) Subject to the provisions of subsection (2) every person to whom administration is granted shall, previous to the issue of such administration, execute in the form prescribed. by the. rules, a bond, with one or 2 sureties conditioned for duly collecting, getting in, administering and distributing the real and personal estate of the deceased,"

30. In this instance the Administrator has failed to administer the Estate properly. She has failed to account or to distribute the Estate in accordance to law. In fact the allegation is that she has unlawfully converted Estate property to her own benefit.

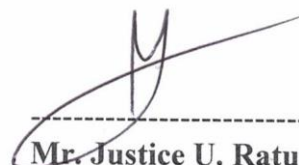
31. To compound that, she has not complied with a specific order from the Court to deposit into Court the proceeds of sale from the Estate property comprised in Housing Authority Lease No. 442040.
32. In line with their Administration Bond, Ravindra Narayan and Ashwin Singh are jointly and severally bound together with Ropal Rashika Kumar for the administration of the Estate of Bharti Kumar.
33. I therefore find that this Court's orders on the 10<sup>th</sup> of February 2022 against the 1<sup>st</sup> Defendant also applies to the sureties, the 2<sup>nd</sup> Defendants.

**This is the Court's Ruling in this matter: -**

- 1. The 2<sup>nd</sup> Defendants Ravindra Narayan and Ashwin Singh are ordered to deposit FJD \$61, 667.67 (sixty one thousand dollars six hundred and sixty seven dollars sixty seven cents) into Court pending the determination of this action.**
- 2. Costs of this application be in the cause.**
- 3. The matter will take its own course, the 1<sup>st</sup> Plaintiff still has to establish that he was in a de facto relationship with the deceased Bharti Kumar.**

**There is a right of appeal**



  
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**Mr. Justice U. Ratuville**  
**Puisne Judge**

cc: -AP Legal, Suva  
-Ropal Raksha Kumar, Suva  
-Ravindra Narayan, Suva