

IN THE HIGH COURT OF FIJI AT SUVA
CIVIL JURISDICTION

JUDICIAL REVIEW NO: HBJ 06 OF 2025

IN THE MATTER of an application by Tatadra Group Limited, incorporated under the Companies Act 2015 of Fiji, for Judicial Review.

BETWEEN: **TATADRA GROUP LIMITED** **APPLICANT**

A private company Incorporated under the Companies Act 2015 of 1 Regal Lane, Level 2 De Vos on the Park Building, Suva.

A N D: **MINISTRY OF LANDS & MINERAL** **1ST RESPONDENT**

RESOURCES a statutory body set up by law of 87 Queen Elizabeth Drive, Nasese, Suva

A N D: **THE ATTORNEY GENERAL OF FIJI** **2ND DEFENDANT**

Counsel: Mr. I. Fa for the Applicant
Mr. R. Green with Ms. L. Nagera for 2nd Defendant

Date of Hearing: 09th October 2025

Date of Judgment: 21st January 2025

RULING

[Leave to Apply for Judicial Review]

Introduction

1. The Applicant filed this Notice of Motion and an application for leave to apply for Judicial

Review under Order 53 Rules (1) and (2), seeking the following orders:

- i) *That the Applicant be granted leave to apply for judicial review,*
- ii) *That the costs of this application be the cost of the cause,*

2. The application is accompanied by an affidavit of Mr. Arindra Maharaj, the Applicant's Director, setting out the factual background of the application. The Respondent objected to the application and filed an affidavit of Ms. Kavita Prasad, the Principal Land Officer, Ministry of Lands and Minerals, outlining the Respondent's objections. Subsequently, the Court heard the oral submissions of the Learned Counsel for the parties. The Learned Counsel for the Applicant and the Respondent also filed their respective written submissions. Having considered the respective affidavits and oral and written submissions, I now pronounce the ruling in this matter.

Factual Background

3. On 19 February 2016, the Applicant made an application to the Respondent for a foreshore development lease over State foreshore land fronting Lot 1, SO 8483, Narewa Nadi. Upon acknowledging receipt of the application, the Respondent informed the Applicant that the requirements set out in the checklist for the foreshore application issued by the Ministry of Lands and Minerals Resources must be met. They are:

Stage 1: Traditional Fishing Rights owners community consultation,

Stage 2: Department of Environment Determination Screening of EIA,

Stage 3: Fisheries Impact Assessment for Determination of Loss of Traditional Fishing Rights,

Stage 4: Advertisement of Public Notice and Subsequent 30-day objection period,

4. After nearly nine years of the process, on the 25th of March 2025, the Respondent informed the Applicant that the Fisheries Impact Assessment component, that is, Stage 3 of the Foreshore development lease application, was refused for the following reasons:
 - i) *That the adjacent dry land belongs to the Yavusa e Tolu of Navatulevu, Sila and Yakuilau,*
 - ii) *The refusal by TGFL to adhere to the Foreshore lease application requirement since 2016,*
 - iii) *That the Directors of TGFL entered into an arrangement where each Director was allotted a portion of the subject land at his discretion without the issuance of a lease proper from the Land Department,*
5. After reviewing the Applicant's response to the Respondent dated 27th March 2025, the Respondent informed the Applicant on 24th April 2025 that the Minister, acting under Section 21(1) of the State Lands Act, had approved the processing of the application for the subject foreshore area to Kofere Trust. Accordingly, the Applicant's application is now deemed closed.
6. Aggrieved by the said decision, the Applicant seeks leave of this Court to apply for judicial review, and seeks the following orders:
 - a) **AN ORDER FOR CERTIORARI** *to remove into the High Court the said decision of the 1st Respondent dated 24.04.25 in closing the Applicant's file for its application dated 19.02.16 for a Foreshore Lease over Foreshore Fronting Lot 1 SO 8483 Narewa, Nadi and refusing to process its application.*
 - b) **AN ORDER** *for mandamus against the 1st Respondent for the 1st Respondent to continue to process the Applicant's application for lease*

over Foreshore Fronting Lot 1 SO 8483 Narewa, Nadi, which it applied for on 19.02.16 in accordance to law.

- c) **A DECLARATION** *that on 24.04.25, the 1st Respondent had acted in breach of the Rules of Natural Justice in closing the Applicant's file concerning its application for a Foreshore Lease over Foreshore Fronting Lot 1 SO 8483 Narewa, Nadi.*
- d) **A DECLARATION** *that the 1st Respondent acted in bad faith and in a manner which was unfair to the applicant by proceeding to close the Applicant's on file on its application for Foreshore Lease for Foreshore Fronting Lot 1 SO 8483 Narewa, Nadi.*
- e) **A DECLARATION** *that the 1st Respondent acted in breach of the Applicant's legitimate expectation to have its application determined in accordance to law.*
- f) **A DECLARATION** *that the 1st Respondent took into account irrelevant considerations when it closed the Applicant's file on its application for Foreshore Lease for Foreshore Fronting Lot 1 SO 8483 Narewa, Nadi.*
- g) **A DECLARATION** *that the 1st Respondent's decision of 24.04.25 in closing the Applicant's file on its application for Foreshore Lease for Foreshore Fronting Lot 1 SO 8483 Narewa, Nadi, was unreasonable in the Wednesbury sense and as such the decision is unlawful.*
- h) **SUCH FURTHER DECLARATION** *and other relief as the Court may deem just.*

7. The Respondent's objection is primarily based on the contention that this application lacks an arguable case, as the Minister acted lawfully under Section 21(1) of the State Lands Act in refusing the Applicant's foreshore lease application because the Applicant failed to comply with the requirement, more specifically outlined under Stage 3 of the checklist.

8. The Learned Counsel for the Respondent acknowledged that this application was made within the time limit and that the Applicant has a sufficient interest in this matter pursuant to Order 53 Rule 5.

9. In **Fiji Airline Pilots Association v Permanent Secretary for Labour and Industrial Relations [1998] FJCA 14; ABU0059U.1997S** (27 February 1998), the Fiji Court of Appeal outlined the applicable test for leave to file a judicial review under Order 53, observing:

*“The basic principle is that the Judge is only required to be satisfied that the material available discloses what might, on further consideration, turn out to be an arguable case in favour of granting the relief. If it does, he or she should grant the application - per Lord Diplock in *Inland Revenue Commissioners v National Federation of Self Employed*, [\[1981\] UKHL 2](#); [\[1982\] AC 617](#) at 644. This principle was applied by this Court in *National Farmers Union v Sugar Industry Tribunal and Others* (CA 8/1990; 7 June 1990). In *R v Secretary of State for the Home Department ex p. Rukshanda Begum* ([1990](#)) [COD 107](#) (referred to in *1 Supreme Court Practice 1997* at pp. 865 and 868) Lord Donaldson MR accepted that an intermediate category of cases existed where it was unclear on the papers whether or not leave should be granted, in which event a brief hearing might assist, but it should not become anything remotely like the hearing which would ensue if the parties were granted leave.*

Arguable Case

10. Accordingly, the Court must consider whether the Applicant has disclosed an arguable case that warrants leave to apply for judicial review.

11. The Applicant contends that, following several consultations, they obtained the consent of

the Tui Nadi, as the head of the Vanua of Nadi, the traditional landowners of the subject land, to waive the Fisheries Impact Assessment. However, the Respondent stated that the consent was revoked by the traditional landowners on 6th December 2017, a fact the Applicant admitted. Notwithstanding that revocation, the Applicant argues that the Tui Nadi and Roko Tui Ba subsequently affirmed that they had no knowledge of it. The Applicant then obtained a petition signed by the landowners of the subject land confirming their agreement to waive the Fisheries Impact Assessment.

12. Additionally, the Applicant claims they were unaware of the identities of the owners of the adjacent dry land: had they been provided with those details, they would have obtained the required consent.
13. Considering the reasons outlined above, it is apparent that there is an arguable case between the parties, warranting the grant of leave to apply for judicial review.
14. In conclusion, I make the following orders:
 - i) Leave is granted to apply for judicial review.
 - ii) The Cost of this application is assessed summarily at \$1000, payable by the Respondents.



A handwritten signature in black ink, appearing to be "R. D. R. T. Rajasinghe".

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Hon. Mr. Justice R. D. R. T. Rajasinghe

At Suva

21st January 2025

Solicitors

Fa & Company for the Applicant.

Attorney General of Fiji for 2nd Respondent.