

IN THE HIGH COURT OF FIJI
AT LAUTOKA
CIVIL JURISDICTION

HBC 53 of 2022

BETWEEN: **SAROJINI** of Sanasana, Naisoso, Nadi, Self-Employed.

APPELLANT / ORIGINAL DEFENDANT

A N D: **PARMAN KUMAR** of Sanasana, Naisoso, Nadi, Carpenter.

RESPONDENT / ORIGINAL PLAINTIFF

Appearances: Mr. Dass E. for the Appellant / Original Defendant
 Mr. Achal A. for the Respondent / Original Plaintiff
Date of Hearing: 19 April 2024
Date of Ruling: 22 January 2026

R U L I N G

INTRODUCTION

1. Before me is a Summons for Enlargement of Time to Appeal. The Summons was filed on 25 October 2023 by Chetty Law & Associates for Sarojini, who is the Appellant.
2. Sarojini was the defendant in an eviction proceedings before the Master. Those proceedings were filed by Messrs. Zoyab Legal on 23 February 2022 pursuant to Section 169 of the Land Transfer Act for and or behalf of Parman Kumar (“Kumar”).
3. The Originating Summons was first called before the Master on 21 April 2022.
4. The Court records will show that a counsel from the Legal Aid Commission’s Office in Nadi did appear on 21 April 2022 and informed the Court that Sarojini had applied to the Legal Aid Commission for assistance.

5. On the next call date, 17 June 2022, Sarojini appeared in person and informed the Court that her Legal Aid Commission application had been rejected. She then sought time, and was given until 15 July 2022 to file an affidavit in opposition. Kumar was given time to file and serve an affidavit in reply by 29 July 2022.
6. On 08 August 2022, Sarojini advised the Court that she had spoken to a Lawyer. However, she did not remember the Lawyer's name.

ORDER IN TERMS OF THE SECTION 169 SUMMONS

7. The Master, noting that Sarojini's Legal Aid Commission application had been rejected, and that she had not filed an affidavit, then granted Order in Terms of the Originating Summons, with no order as to costs.

PROCEEDINGS FOLLOWING THE MASTER'S ORDERS

8. On 01 September 2022, Sarojini filed an *ex-parte* Summons seeking stay pending appeal. She filed this in person. On 27 September 2022, Vula Lawyers filed a Notice of Appointment to represent Sarojini. However, the very next day, on 28 September 2022, Sarojini filed, in person, a Summons for Enlargement of Time to Appeal. On 25 November 2022, Messrs. Zoyab Legal filed an Affidavit in Opposition of Kumar. Notably, it is a bare denial of all the contentious issues raised by Sarojini in her earlier affidavit. On 28 November 2022, MIQ Lawyers filed a Notice of Change of Solicitors in place of Vula Lawyers. On 23 February 2023, MIQ Lawyers filed an Affidavit in Reply.
9. On the call-over date of 24 March 2023, Sarojini did not appear. Ms. Begum, who appeared for Kumar asked for the Summons for Enlargement of Time to be struck out. I did strike out the Summons for Enlargement of Time and ordered costs in the sum of \$1,000 in favour of Kumar.
10. On 19 April 2023, Zoyab Legal filed an *ex-parte* Notice of Motion to issue Writ of Possession, supported by an Affidavit of Kumar sworn on 14 April 2023. This was placed before the Master who granted leave on 24 April 2023. On 01 May 2023, MIQ Lawyers filed a Notice of Motion to reinstate the Summons for Enlargement of Time.
11. The matter was called for mention on 11 May 2023, 19 May 2023, 15 June 2023, 10 July 2023, 17 July 2023 and 08 August 2023.

12. On 17 July 2023, Zoyab Legal filed an Affidavit in Opposition sworn by Kumar on 13 July 2023. On 11 September 2023, Chetty Law & Associates filed a Notice of Change of Solicitors in lieu of MIQ Lawyers for Sarojini. On 03 October 2023, I did grant leave to reinstate the appeal. I also granted stay until further orders. On 25 October 2023, Chetty Law & Associates then filed a Summons for Enlargement of Time to Appeal. This is the application which I now deal with at this time.
13. After several adjournments¹, the matter was finally heard on 19 April 2024.

THE PRINCIPLES

14. The principles upon which an enlargement of time may be granted are articulated well by Calanchini P in **Gulf Seafood (Fiji) Ltd v i-Taukei Land Trust Board** ABU94.2016 (20 December 2017).

[11] The principles upon which an enlargement of time may be granted are well settled and well known. They were considered by the Supreme Court in NLTB (now iTLTB) –v- Ahmed Khan and Another (CBV 2 of 2013; 15 March 2013). In order to ensure that the discretion is exercised in a principled manner the Court considers (a) the length of the delay, (b) the reasons for the delay, (c) whether there is a ground of merit justifying the appellate court’s consideration or, where there has been substantial delay, nonetheless is there a ground that will probably succeed and (d) if time is enlarged, will the respondent be unfairly prejudiced. The discretion should be exercised in a manner that re-inforces the importance of compliance with the rules of Court and the need to bring finality to litigation (see McCaig –v- Abhi Manu CBV 2 of 2012; 24 April 2013).

ANALYSIS

15. I have carefully read the affidavits filed. One striking feature of these proceedings is that Sarojini consistently struggled to articulate her case with precision. That only shifted with the affidavit she swore on 25 October 2023, filed that same day by Messrs. Chetty Law & Associates.
16. On the basis of that Affidavit, I am of the view that she has a very strong arguable case. In a nutshell, the pertinent facts which Sarojini deposes are:
- i. this is all a family matter.
 - ii. the land in question was originally occupied by one Munsamy Reddy. Munsamy did not hold a formal lease over the land. However, under some informal arrangement he had with the i-Taukei landowners he was

¹ on 30 November 2023, 01 December 2023, 15 February 2024 and 17 April 2024.

able to occupy that land. The i-TLTB, apparently, was aware of the informal arrangement.

- iii. Munsamy Reddy had five children namely Arna Janan, **Ram Reddy** (deceased), **Ranga Reddy** (deceased), Munsamy and Bob.
- iv. Ranga Reddy is Sarojini's husband.
- v. Munsamy had given unconditioned consent to Ranga Reddy to build a permanent dwelling on a portion of the land. In due course, Ranga Reddy did build a substantial 3-bedroom concrete house together with another extension containing 2 bedrooms. This was subject to lease.
- vi. Munsamy died on 10 February 1979.
- vii. upon his death, a Will dated 13 April 1977 purporting to be his last Will and Testament, emerged.
- viii. under the Will, Ram Reddy, Sarojini's father-in-law and her late husband's sibling was named the sole-beneficiary.
- ix. the family members all were suspicious of the Will and suspected that it was forged. A caveat was placed in the Probate Registry.
- x. apparently, at some point after Munsamy died, Ranga Reddy tried to apply for a lease over the particular piece of land in which he is interested. However, he could not obtain it as the *i*-TLTB was told that Ram Reddy had a probate over the entire estate of Munsamy.
- xi. Ram Reddy, being the brother of Ranga Reddy, had no problem with Ranga living on the land. However, after he died, his estate passed to his wife Nirmala to administer. She later passed it to Kumar.
- xii. the *i*-TLTB had already surveyed the area that she occupies with her family.

17. Having said that, I do note that the affidavits filed by the Respondent do not seriously deny the fact that Sarojini's late husband had built a substantive dwelling on the portion of the land in question, or that Sarojini's family had dwelled on the land for some fifty years or so, or that the late family patriarch, Munsamy, was the first to be in possession of all the land in question, or that Sarojini's house was constructed when Ram Reddy was still alive.

18. That basic factual matrix, in my view, leaves enough room for an arguable case for an equitable claim.

CONCLUSION

19. Leave granted to enlarge time to appeal. Further directions to be given in Court when counsel appear to receive this Ruling. No orders as to costs. For the avoidance of doubt, previous costs ordered are not disturbed by this ruling.



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Anare Tuilevuka
JUDGE

22 January 2026

