

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

High Court Civil Action: HBC No. 398 of 2025

IN THE MATTER of an application under 169 of the Land Transfer Act, 1971 for an Order for Immediate vacant possession.

BETWEEN: **NIKHIL NAVIN BULSARA & NAVIK NAVIN BULSARA** both of Toorak, Suva, Fiji, Businessman.

PLAINTIFFS

AND: **GREAT PLATINUM INVESTMENT PTE LIMITED** having its registered address at 25 McGregor Road, Suva.

1st DEFENDANT

AND: **AMITH PRAKASH NARAYAN & OCCUPIERS** of Flat 2, 29 Belo Street, Samabula, Suva, Businessman.

2nd DEFENDANT

AND: **PRANITA MALA & OCCUPIERS** of Flat 2, 29 Belo Street, Samabula, Suva, Businesswoman.

3rd DEFENDANT

Counsel: Mr. Navunisaravi, M for the Plaintiff
No Appearance from the Defendants

Date of Hearing: 6th February, 2026

Date of Judgment: 16th February, 2026

JUDGMENT

[Vacant possession pursuant to section 169 of the Land Transfer Act, Cap 131]

INTRODUCTION

[1]. The Plaintiff filed Originating Summons on 8th December, 2025 and sought for the following Order:-

- (a) *That the Defendants give vacant possession to the Plaintiffs property at Flat No. 2 of 29 Belo Street, Samabula, Suva comprised and described as in Crown Lease No. 6818 comprised in Lot 15 Section 7 Samabula, Plan No. S 603A, Viti Levu, Suva, 39 perches, LD Ref No. 4/16/3944.*
- (b) *That the costs of this application be paid by the Defendants.*
- [2]. The application is made pursuant to **Section 169 of the Land Transfer Act, Cap 131**.
- [3]. This case proceeded to hearing on an undefended basis as the Defendants were served with the documents, however, they were not present in court and neither did they file any affidavit in opposition.
- [4]. This court has a duty to determine the pending issue before the court in a just and fair manner in terms of the laws provided for in sections **169, 171 and 172 of the Land Transfer Act** [Cap 131].

Plaintiff's Case

- [5]. In summary the Plaintiffs in their Affidavit states as follows-
- *That they are the registered lessees of the property described as Crown Lease No. 6818 comprised in Lot 15 Section 7 Samabula, Plan No. S 603A, Viti Levu, Suva, 39 perches, LD Ref No. 4/16/3944 (herein referred to as the "said Property")*
 - *That the 1st Defendant is at all times a Limited Liability Company having its registered office at 25 McGregor Road, Suva, Viti Levu and the directors are **Amith Prakash Narayan** and **Pranita Mala** who are the 2nd and 3rd named Defendants.*
 - *That they entered into a Tenancy Agreement with the 1st Defendant whereby the 2nd Defendant had executed the Agreement in his legal capacity as the Director of the 1st Defendant.*
 - *That the 2nd Defendant agreed to occupy the premises for Flat 2 of the said property for 1 year commencing on 1st day of March, 2025.*
 - *That on 7th June, 2025 they issued the First Notice exercising Clause 8 of the Tenancy Agreement for the renovation of the property and the notice was personally served and received and acknowledged by the 3rd Defendant and till to date the 3rd Defendant is the one occupying the said premises. The 3rd Defendant was personally served on the 8th June, 2025.*

- *That they required the Defendants to vacate the property due to required renovations and safety concerns following a fire in the neighbouring property which resulted in their issuing the Notice to Vacate.*
- *That on 29th July, 2025 they issued the final extension to the 1st Defendant to give vacant possession of the property by 24th August, 2025.*
- *That on 14th September, 2025 they issued final extension notice and final demand for Vacant Possession of the said property by 15th September, 2025.*
- *That on 22nd September, 2025, they issued a Final Notice of Breach and Final Demand which the deadline to vacate was on the same day.*
- *That on 23rd September, 2025 they issued a Final Notice for extension till 30th September, 2025. The Notice was duly acknowledged by the Defendants.*
- *That on 1st October, 2025 they issued a final breach and notice to the Defendants which they have warned and notified that they are now seeking legal action against them in the Court of Law.*
- *That they seek the Court's intervention as this is a State Lease and the occupants have not given their full details to them to enable them to apply for consent to sub-let at the Lands Department. The lack of the Defendants compliance and refusal to vacate the property will render them liable for breach of Lease conditions by the Lands Department.*
- *That they have no other options but to seek legal proceedings against the Defendants in giving vacant possession of Flat 2 of the said premises.*
- *That they are only seeking the recovery of rent from the months of September to October, in the total sum of \$3600.00.*
- *That they have been severely affected by the Defendants as they are trying to further renovate the said premises and at the same time they are incurring loss and damages.*
- *That the said Defendants have been granted multiple extensions well beyond the contractual requirements which they duly acknowledged, despite this they have failed to vacate the said premises.*

THE LAW

[6]. The application is filed in terms of s 169 of the Land Transfer Act [Cap 131] which provides as follows:

“The following persons may summon any person in possession of land to appear before a judge in chambers to show cause why the person summoned should not give up possession to the applicant:

- (a) the last registered proprietor of the land;*
- (b) a lessor with power to re-enter where the lessee or tenant is in arrears for such period as may be provided in the lease and, in the absence of any such provision therein, when the lessee or tenant is in arrear for one month, whether there be or be not sufficient distress found on the premises to countervail such rent and whether or not any previous demand has been made for the rent;*
- (c) lessor against a lessee or tenant where a legal notice to quit has been given or the term of the lease has expired.* In the case of *Ram Narayan v Moti Ram* (Civ. App. No. 16/83) Gould J.P. said-

“... the summary procedure has been provided in the Land Transfer Act and, where the issues involved are straightforward, and particularly where there are no complicated issues of fact, a litigant is entitled to have his application decided in that way.”

[7]. The procedure under s.169 is governed by sections 171 and 172 of the *Land Transfer Act* (Cap 131) respectively which stipulates as follows:-

“s.171. On the day appointed for the hearing of the Summons, if the person summoned does not appear, then upon proof to the satisfaction of the Judge of the due service of such summons and upon proof of the title by the proprietor or lessor and, if any consent is necessary, by the production and proof of such consent, the judge may order immediate possession to be given to the Plaintiff, which order shall have the effect of and may be enforced as a judgment in ejectment.”

s.172. If a person summoned appears he may show cause why he refuses to give possession of such land and, if he proves to the satisfaction of the judge a right to the possession of the land, the judge shall dismiss the summons with costs against the proprietor, mortgagee or lessor or he may make any order and impose any terms he may think fit.”(Underlined is mine for emphasis)

- [8]. As far as the requirements in terms of section 172 are concerned, the Supreme Court in the case of *Morris Hedstrom Limited v. Liaquat Ali* (Action No. 153/87 at p2) said as follows and it is pertinent:

"Under Section 172 the person summoned may show cause why he refused to give possession of the land and if he proves to the satisfaction of the judge a right to possession or can establish an arguable defence the application will be dismissed with costs in his favour. The Defendants must show on affidavit evidence some right to possession which would preclude the granting of an order for possession under Section 169 procedure. That is not to say that final or incontrovertible proof of a right to remain in possession must be adduced. What is required is that some tangible evidence establishing a right or supporting an arguable case for such a right must be adduced."

- [9]. The requirements of section 172 have been further elaborated by the Fiji Court of Appeal in *Ajmat Ali s/o Akbar Ali v Mohammed Jalil s/o Mohammed Hanif* (Action No. 44 of 1981 – judgment 2.4.82) where the court said:

"It is not enough to show a possible future right to possession. That is an acceptable statement as far as it goes, but the section continues that if the person summoned does show cause the judge shall dismiss the summons; but then are added the very wide words "or he may make any order and impose any terms he may think fit" These words must apply, though the person appearing has failed to satisfy the judge, and indeed are often applied when the judge decides that an open court hearing is required. We read the section as empowering the judge to make any order that justice and the circumstances require. There is accordingly nothing in section 172 which requires an automatic order for possession unless "cause" is immediately shown.

(Emphasis added).

- [10]. In *Premji v Lal* [1975] FJCA 8; Civil Appeal No 70 of 1974 (17 March 1975) the Court of Appeal said:

‘These sections and equivalent provisions of the Land (Transfer and Registration) Ordinance (Cap. 136-1955 Laws of Fiji) have been considered in a number of cases in this court and the Supreme Court. In Jamnadas & Co. Ltd. v. Public Trustee and Prasad Studios Ltd. (Civil Appeal No. 39 of 1972 - unreported) refers.

- [11]. Under *Section 172 of the Act*, the judge is empowered to **dismiss the summons** if the respondent proves to his satisfaction that he has a valid defence, a right to possession, locus standi and or a licence. It further provides that a judge may make any order and impose any

terms that he may think fit. The dismissal of the summons is not to prejudice the right of a **Plaintiff** to take any other proceedings to which he may be otherwise entitled.

[12]. It is for the defendant to ‘show cause’ why he or she is refusing to give vacant possession of the land comprised in the Crown Lease No. 6818, being Lot 15, Section 7, Samabula, Plan No. S 603A, Suva, Viti Levu, 39 perches, LD Ref No. 4/16/3944, of which the **Plaintiff is the registered proprietor?**

[13]. Reference is made to the case authorities of *Caldwell v. Mongston (1907) 3 F.L.R. 58 and Perrier Watson v. Venkat Swami (Civil Action 9 of 1967 - unreported)* - wherein the Supreme Court held ‘*that if the proceedings involve consideration of complicated facts or serious issues of law, it will not decide the cases on summary proceedings of this nature, but will dismiss the summons without prejudice to the Plaintiff’s right to institute proceedings by Writ of Summons.*’

ANALYSIS and DETERMINATION

[14]. The question for this court to determine is whether the Plaintiff is entitled to the possession of the land comprised, in the Crown Lease No. 6818, being Lot 15, Section 7, Samabula, Plan No. S 603A, Suva, Viti Levu, 39 perches, LD Ref No. 4/16/3944, of which the Plaintiff is the registered proprietor in terms of s169 of *the Land Transfer Act [Cap 131]*?

[15]. In this case, the Plaintiff must first comply with the requirements of **section 169 of the Land Transfer Act Cap 131**, which are stated hereunder as follows-

- (a) *The **first** requirement or the first limb of section 169 is that the applicant must be the last registered proprietor of the subject land.*
- (b) *The **second** is that the applicant be a lessor with power to re-enter where the lessee or tenant is in arrears; and*
- (c) *The **third** is where a lessor against a lessee or tenant where a legal notice has been given or the term of the lease has expired. The second and third limb of section 169 does not appear to apply in that the defendant is not the plaintiff’s tenant who is in arrears and/or the term of the lease has expired.*

[16]. In this instance, the first limb of s169 applies. The annexure marked ‘NB1’ within the Affidavit in Support of Plaintiffs confirms that they are, in this action are the last registered proprietor of the Crown Lease No. 6818, being Lot 15, Section 7, Samabula, Plan No. S 603A, Suva, Viti Levu, 39 perches, LD Ref No. 4/16/3944,

[17]. In this respect, the certified true copy of the Crown Lease No. 6818 shows clearly that the land in question was granted to the Plaintiffs Nikhil Navin Bulsara and Navik Navin Bulsara on 18th January, 2019. The Plaintiffs, for the purposes of **section 169** application is **the last registered proprietor** of the said **Crown Lease No. 6818**.

[18]. In conclusion, the Defendants who were served with several Notices to vacate did not file an affidavit in Opposition nor have they appeared in Court but continues to live on the said property.

[19]. I do not find any defence and or evidence that the Defendants have any legal or equitable right to continue occupying the Plaintiffs property since the Tenancy has been terminated by the Plaintiffs.

[20]. I proceed to make the following final orders of this court.

FINAL ORDERS

[21]. **A. That the Plaintiffs Originating Summons dated 1st December, 2025 seeking an order for Vacant Possession hereby succeeds against the Defendants.**


B. That the Defendants are to give vacant possession of the Plaintiffs' property at Flat No. 2, 29 Belo Street, Samabula comprised in Crown Lease No. 6818, being Lot 15, Section 7, Samabula, Plan No. S 603A, Suva, Viti Levu, 39 perches, LD Ref No. 4/16/3944, in one (1) calendar months' time, on or before 16th March, 2026 at 4pm.

C. Execution will be suspended till the 16th March, 2026 at 4 pm.

D. That the Defendant is to pay the outstanding rent of \$3,800.00.

E. Cost is summarily assessed at \$1000.00 against the Defendants and to be paid within 28 days.




Waleen M George
Acting Puisne Judge

Dated at Suva this 16th day of February, 2026.

Solicitors: Messrs Khan & Company for the Plaintiffs
No Appearance from the Defendants