

IN THE HIGH COURT OF FIJI
AT LAUTOKA
CIVIL JURISDICTION

Civil Action No. HBC 242 of 2012

BETWEEN : LOK NATH AND KISHORE NATH of Tuvu, Lautoka,
Farmer.

PLAINTIFF

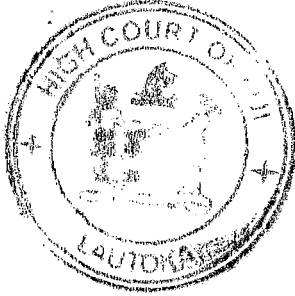
AND : SURIYA DEEP SINGH AND SUNIL DEEP SINGH of
Australia, Businessman, Australia (occupation not known).

DEFENDANT

R U L I N G

1. The plaintiffs have filed an application seeking a declaration that the defendant's eviction notices against them are illegal and void as they contravene the provisions of the Agricultural Landlord & Tenant Act and that the defendants be restrained from interfering with the plaintiff's occupation of all that piece of land being 15 acres in area and which is part of freehold land comprised in CT 7736.
2. I gather that the plaintiff's have a pending ALTA Claim for a declaration of tenancy.
3. Mr. Qoro submits that the reason why they are seeking injunctive Orders in this Court is because the Agricultural Tribunal does not have powers to grant such Orders.
4. I note that the plaintiff's have not given any undertaking as to damages. For that reason alone, I would be loath to grant the injunctive relief sought.
5. In my view, the more appropriate thing for the plaintiff to do is to raise the fact of the pendency of their ALTA claim when the plaintiff's institute a section 169 and/or an Order 113 application.
6. I observe that in this case, the plaintiffs were granted an agricultural lease by the late patriarch of the Singh family. When their lease expired, they were granted a single 20-year extension under ALTA. That expired in 2004. They have since remained on the land but have only mounted their ALTA claim in the face of new developments in the land in question.

7. The injunctive orders sought in this instance are, in effect, interlocutory, in the sense that they are designed to stop the plaintiffs from pursuing eviction proceedings until the determination of the ALTA claims. As such, an appropriate undertaking as to damages should have been given by the Plaintiff. Given that no such undertaking is given, I strike out the Originating Summons. Parties are to bear their own costs.



A handwritten signature in black ink, consisting of several overlapping loops and a long horizontal stroke at the end. The signature is positioned above a horizontal dotted line.

Anare Tuilevuka
JUDGE
11 April 2014.