

**IN THE HIGH COURT OF REPUBLIC OF FIJI**  
**WESTERN DIVISION**  
**AT LAUTOKA**

**CIVIL JURISDICTION**

**CIVIL ACTION NO. HBC 50 OF 2014L**

**BETWEEN** : **MOHAMMED HUSSEIN** of Green Valley, New South  
Wales, 2168, Australia, Retired

**PLAINTIFF**

**AND** : **AMINIO TABUA** of Navakai, Nadi, occupation unknown to  
the Plaintiff

**DEFENDANT**

**Before:** Master M H Mohamed Ajmeer

**Counsel:**

Ms Vokanavanua for the Plaintiff  
Defendant in person

**Date of Hearing** : 10 July 2014

**Date of Judgment** : 10 July 2014

**J U D G M E N T**

1. This is an application by the Plaintiff filed 4 April 2014 seeking vacant possession of the land described in the summons (the property). This application is made pursuant to s.169 (a) of the Land Transfer Act. In terms of that section the last registered proprietor of the land 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.

2. The summons was duly served on the Defendant pursuant to s.170 of the Land Transfer Act. Also the summons describes the property sufficiently as required by that section.
3. The defendant filed an affidavit in opposition in which he states various irrelevant things or matters. His affidavit does not indicate that he has a right to possession of the property.
4. At the hearing the Defendant admitted that the Plaintiff is the legal proprietor of the property. Therefore the plaintiff is entitled to bring proceedings under section 169 (a) of the Land Transfer Act to eject the defendant from the property.
5. He also admitted that he is occupying the property since 2008 and paid rent to Plaintiff's daughter till 2012. He is occupying the land without paying any rent since August 2012.
6. In a proceeding of this nature, the Defendant must establish his right to possession. In other words he must show cause why an ejectment order should not be made against him.
7. From what the Defendant admitted in Court, it appears to me that the Defendant is occupying the land without the consent of the Plaintiff, being the legal proprietor of the property.
8. Supposedly, even if the Defendant had consent of the Plaintiff to occupy the property, that consent is terminated by the quit notices issued by the Plaintiff in 2012 and October 2013.
9. The Defendant has failed to satisfy me that he has a right to occupy the property. The court will dismiss the summons, pursuant to section 172 of the Land Transfer Act, if the defendant proves to the satisfaction of the judge a right to the possession of the property.

10. I therefore enter Judgment in favour of the Plaintiff. Accordingly I order that the Defendant to deliver up possession of the property described in the summons dated and filed on 4 April 2014 to the Plaintiff forthwith. Order accordingly.

*M H Mohamed Ajmeer*



At Lautoka

10/07/14

Solicitors:

Messrs Naco Chambers, Barristers & Solicitors for the plaintiff

No solicitors for the defendant

.....  
**M H Mohamed Ajmeer**  
**Master of the High Court**