

IN THE HIGH COURT OF FIJI
WESTERN DIVISION AT LAUTOKA
CIVIL JURISDICTION

Civil Action : HBC 100 of 2012

BETWEEN : **KENTO (FIJI) LIMITED**, a limited liability company having its registered office at P O Box 124, Nadi.

PLAINTIFF

AND: **NAOBEKA INVESTMENT LIMITED**, a limited liability company having its registered office at P O Box 1719, Nadi.

1st DEFENDANT

AND: **iTAUKEI LAND TRUST BOARD** formerly known as **NATIVE LAND TRUST BOARD**, a statutory body registered under the provisions of the Native Land Trust Act having its head office at Suva, Fiji.

2nd DEFENDANT

Appearances : Mr Z. S. Mohammed for Plaintiff
: Mr I. Tikoca for 1st Defendant
: Mr P. Nayare for 2nd Defendant
Date of Hearing : 5 April 2017
Date of Ruling : 5 April 2017

R U L I N G

[01] This is an application filed by the plaintiff to transfer the matter to a Judge for hearing and determination.

[02] The first defendant is opposing the application on the ground that the Master of the High Court has original jurisdiction to hear and dispose of the matter that is pending before him. The first defendant has filed an application pursuant to Order 18, Rule 18 of the High Court Rules 1988 (the 'HCR') to strike out the claim against the first defendant.

[03] It is noted that the application does not state the Rule or Law which the application is made under.

[04] The matter before the learned Master ('the *Master*') is an application to strike out the claim filed by the first defendant.

[05] A strike out application filed under O.18, r.18 is an interlocutory application, which the Master has jurisdiction to hear and dispose of under O.59, r.2 of the HCR, which so far as material provides:

"2. The Master shall have and exercise all the power, authority and jurisdiction which may be exercised by a judge in relation to the following causes and matters –

- (a) Chamber application, except in respect of –*
 - (i) injunctions, other than injunctions by consent or in connection with ancillary to charging orders;*
 - (ii) proceedings involving the liberty of the subject;*
 - (iii) criminal proceedings;*
 - (iv) proceedings under the Family Law Act 2003; (Cap 51)*
 - (v) from Magistrate's Courts or any other tribunal;*
 - (vi) applications for leave to seek judicial review; or*
 - (vii) applications for constitutional redress*

..."

[06] Subject to the exclusion in r. 2 (a), the Master can exercise all the power, authority and jurisdiction which may be exercised by a judge in relation to chamber applications. Applications to strike out any pleadings are not excluded from the Master's jurisdiction. Therefore, the Master has plenary jurisdiction to hear and decide an application to strike out the claim filed under rule 18.

[07] I do not find any compelling reason as to why the matter should be transferred to a judge when the Master has plenary jurisdiction to hear and decide the matter.

[08] I would, therefore, strike out the application to transfer the matter to a judge with summarily assessed cost of \$200.00 payable by the plaintiff to the first Defendant.

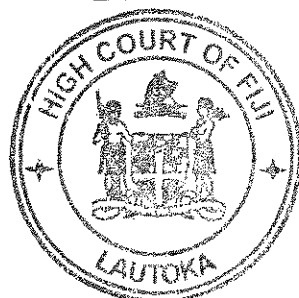
Final Orders:

1. Application to transfer refused.
2. The plaintiff is to pay cost of \$200.00, which is summarily assessed, to the first defendant.

M H Mohamed Ajmeer 5/4/17

M H Mohamed Ajmeer

JUDGE



At Lautoka

5 April 2017

Solicitors:

For plaintiff: Messrs. Babu Singh & Associates, Barristers & Solicitors

For first defendant: Messrs. Vuataki Law, Barristers & Solicitors