

IN THE HIGH COURT OF FIJI
AT SUVA
CIVIL JURISDICTION

P 55676

IN THE ESTATE of ABRAN late of
Lomolomo, Lautoka, Fiji, Farmer, Deceased,
Testate.

BEFORE: Master Vishwa Datt Sharma

COUNSELS: Ms. Tobius Koro L for the Plaintiff
 Ms. Bulei Levuka for the Defendant

Date of Decision: 11th August, 2017

RULING

*[Motion seeking leave to grant Letters of Administrators limited
grant in the Estate pursuant to section 7 (b) of the Succession
Probate and Administration Act, Cap 60]*

APPLICATION

1. The **Motion** together with an **Affidavit in Support** was filed by the **Applicant** and sought for the following orders-
 - (i) That leave be granted to **IBRAHIM** to take out Letters of Administration limited grant in the **Estate of ABRAN.**
2. The application is opposed by Mohammed Farook and filed an Affidavit in Opposition.
3. The application is filed pursuant to Section 7 (b) of the Succession Probate and Administration Act, Cap 60.

THE LAW

4. Section 7 (b) of the Succession Probate and Administration Act, Cap 60 states as follows-

The court may grant administration of the estate of a person dying intestate to the following persons (separately or conjointly) being not less than 21 years of age-

(b) if there is no husband or wife, to one or more of the next of kin in order of priority of entitlement under this Act in the distribution of the estate of the deceased.

ANALYSIS and DETERMINATION

5. Deceased Abran, executed a "**WILL**" dated 06th January, 1970 expressing his wishes in terms of the disposition of his Estate.
6. He appointed Sheikh Abdul Kadar and Permal Naidu as Executors and Trustees of his Estate and wife Fatima, his sons Ibrahim, Abbas, Moidin and Ayub as beneficiaries in equal shares and shares alike absolutely.

7. Beneficiary Ibrahim lodged his application with the Principal Probate Registry in Suva seeking for a Letters of Administration with WILL [L/A DBN Grant.
8. Subsequently, two Caveats were lodged against the issuance of the LADBN Grant to Ibrahim. The first Caveat was lodged by Ibrahim whilst the second Caveat by Mohammed Farook.
9. Warning to Caveator and Appearance to Warning was filed against each other respectively.
10. Rather than pursuing the matter in terms of the Caveat in place and that the Warning and the Appearance were filed by both, the Caveator/Applicant Ibrahim filed a Motion and sought for leave to issue L/A DBN Grant to him.
11. Procedurally, when the Caveator files any Caveat restraining any issuance of Grant in the deceased Estate, then he or she is required to commence proceedings in terms of Order 76 of the High Court Rules, 1988 and establish his interest in the deceased Estate. This was not done in the instant case.
12. It should always borne in mind that Estate of any Deceased person should not be left unadministered and allow the Estate to deteriorate for no reason. Court's will ensure that Grants are expedited in order to ensure the full and complete administration of the Estate accordingly. This will also ensure that no one suffers at the peril of others in one way or another.
13. After a careful perusal of the Deceased WILL, I find that both Executors and Trustees as well as the Beneficiaries, except for Ibrahim are all deceased now. Death Certificates have been annexed to the application in order to establish the death.
14. Therefore, it is only appropriate that this Court gives the Grant to the surviving beneficiary Ibrahim in terms of the deceased's express wishes in his WILL dated 06th January, 1970.
15. Accordingly, I grant the Applicant, Ibrahim Leave to issue Letters of Administration with WILL in the Estate of Abran.

16. Bothe caveats pending before this Court restraining Grant have also expired but is hereby Dismissed accordingly.

ORDERS

- (i) Leave is hereby granted to Ibrahim to issue Letters of Administration with WILL in the Estate of Abran.
- (ii) Caveat Nos. 09 and 30 of 2014 are hereby Dismissed.
- (iii) Orders accordingly.

Dated at Suva this 11th Day of August, 2017



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VISHWA DATT SHARMA
Master of the High Court
Suva.

Cc. K LAW Chambers, Nadi.

Iqbal Khan & Associates, Lautoka.