

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

**Civil Appeal No. 110 of 2016**

(On an Appeal from a Judgement given by the Learned Master of the High Court of Fiji at Lautoka on the 2<sup>nd</sup> day of September 2016 in Civil Action No. HBC 110 of 2015.

**BETWEEN** : **DENISH RAJNEEL SEN** of Wailailai, Ba, Fiji as Administrator De Bonis Non (with Will) of the **ESTATE OF ARJUN SEN.**

**APPELLANT**

**AND** : **DHARMEND KUMAR SINGH** of Votua Road, Wailailai, Ba, Fiji, Labourer.

**RESPONDENT**

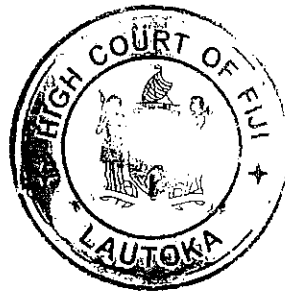
Appearances : Mr. Padarath for the Appellant  
Respondent in Person

**R U L I N G**

1. Before me is an inter-partes Summons dated 18 July 2018 filed by Samuel K.Ram for the Applicant.
2. The application seeks an Order for clarification of my last Ruling on this matter.
3. By the judgement in question, I had allowed the Appellant's appeal of a decision by which the Learned Master had dismissed with costs a Summons under section 169 of the Land Transfer Act by which the Appellant had sought an Order to evict the Respondent from "Sigawa" and Nakoroqiou (part of) I the District of Bulu on Viti Levu.
4. The said land belongs to the estate of the late Arjun Sen. The Appellant is the personal representative of the Arjun Sen estate. The Respondent came into possession of the said land on the invitation of one of the four beneficiaries of the estate. The beneficiary in question had given a power of attorney and also

a letter of consent to the Respondent. These were relied on by the Respondent to resist the Appellant's section 169 application.

5. That arrangement was never consented to by the Appellant, nor was there any indication that the other beneficiaries had given their blessings to that arrangement.
6. The question was whether the established facts were sufficient to enable the Master to summarily determine the issues in question.
7. I was of the view that the Respondent was a mere invitee onto the land in question by an absentee beneficiary who was not a party to the proceedings. His interest was very weak, legally because it ultimately "piggybacks" so to speak on the interest of the absentee beneficiary.
8. While the beneficiary may have an equitable beneficial entitlement to the property in question, the administrator of the estate is legally equipped with sufficient interest in the property which may be asserted even against the individual interest of a single beneficiary if it compromises the interest of the body of beneficiaries as a whole.
9. The Respondent accordingly should deliver vacant possession forthwith of "Sigawa" and Nakoroqiu (part of) in the District of Bulu on Viti Levu.



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Anare Tuilevuka  
**JUDGE**  
Lautoka  
06 August 2018.