

**IN THE HIGH COURT OF FIJI AT SUVA**  
**PROBATE JURISDICTION**

Probate Action No. 01 of 2019

**IN THE ESTATE** of **IST DEO** late of  
Kulukulu, Sigatoka, Fiji, Panel  
Beater, Deceased, interstate

**BETWEEN** : **RAJIV AKAASH DEO** of Kulukulu, Sigatoka, Reporter  
**APPLICANT**

**AND** : **SANJITA NAIDU DEO** of Kulukulu, Sigatoka, Domestic  
Duties  
**RESPONDENT**

**BEFORE** : M. Javed Mansoor, J

**COUNSEL** : Mr. Nilesh Sharma for the Applicant

**Date of hearing** : 12 November 2019

**Date of judgment** : 23 December 2019

## JUDGMENT

1. The Applicant filed an originating summons on 2 January 2019, seeking leave for the Registrar to seal a grant of Letters of Administration in favour of the Applicant in the estate of Ist Deo of Kulukulu, Sigatoka, who died intestate on 28 January 2016. The Applicant is the son of the deceased, Ist Deo. The Respondent is the lawful wife of the deceased. The Applicant pleaded that the three beneficiaries to the estate are the Respondent, a daughter of the deceased and himself.
2. The originating summons was served on the Respondent's solicitor on 11 June 2019, and the Applicant and the Respondent were represented when the matter came up before the Master on 8 July 2019. The Master ordered the Respondent's counsel to file an affidavit in opposition within 21 days, and for the Applicant to reply within 14 days. The matter was to be mentioned on 26 August 2019 before the Master, but was vacated to 13 September 2019. On that day, the Master has recorded that there was no response by the Respondent and no appearance on behalf of the Respondent, with no reason being given. The matter was allocated to a judge.
3. When the matter was mentioned before me, there was no appearance on behalf of the Respondent. Hearing was set for 12 November 2019, and notice was issued on the Respondent. Subsequently, on 5 November 2019, the registry issued a notification by phone to the lawyers on record of both parties that the matter would be taken up for hearing at 2.30 pm on 12 November, and not at 9.30 am as previously scheduled.
4. On 12 November 2019, the day of the hearing, there was no appearance for the Respondent. Counsel for the Applicant submitted that the subject estate has not been administered after the date of death on 28 January 2016, that the Respondent had not filed an affidavit in opposition and that there was no representation on behalf of the Respondent notwithstanding the notices that were sent. He submitted that the reliefs prayed for in the Applicant's originating summons filed on 2 January 2019 be granted.
5. Section 7 of the Succession, Probate and Administration Act 1970 states that the Court may grant administration of the estate of a person dying intestate to the husband or wife of the deceased; or 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; or any other person, whether a creditor or not, if there is no other person.

6. The Respondent, though entitled to be granted the right to administer the estate by virtue of being the lawful wife of the deceased, has not shown any interest in administering the estate of Ist Deo, who died on 28 January 2016. It is unfortunate that the estate has been left without administration for nearly four years. The application for administration has been made by the son of the deceased, and in the absence of any application by the wife, the Applicant would seem to be the most suitable to administer the estate. In his affidavit filed on 2 January 2019, the Applicant states that he is maintaining the property comprising the estate. Moreover, the Respondent has not objected to the reliefs claimed in the Applicant's originating summons, and, therefore, it is reasonable to conclude that she has no objection to the grant of the reliefs sought by the Applicant. In these circumstances, it is fitting to grant the Applicant letters of administration to administer the estate of Ist Deo.

#### Orders

- A. The Registrar is directed to seal a grant of Letters of Administration in favour of the Applicant to administer the estate of Ist Deo who resided in Kulukulu, Sigatoka.
- B. The Respondent is to pay the Applicant costs summarily assessed in a sum of \$500.

Delivered at Suva this 23<sup>rd</sup> day of **December, 2019**



  
Justice M. Javed Mansoor  
Judge of the High Court

