

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

CIVIL ACTION NO. HBC 138 OF 2018

BETWEEN : **OLOOLO GANGA MATA TEMPLE** of Sigatoka.
FIRST PLAINTIFF

: **UMESH PRASAD** of Oloolo, Sigatoka, Taxi Driver.
SECOND PLAINTIFF

: **YOGEN RAJU** of Olosara, Sigatoka, Self-employed.
THIRD PLAINTIFF

AND : **SOHAN PRASAD** of Oloolo, Sigatoka, Businessman.
FIRST DEFENDANT

: **CHANDRA SEN** of Oloolo, Sigatoka, Carpenter.
SECOND DEFENDANT

: **MURGESAN** of Oloolo, Sigatoka, Farmer.
THIRD DEFENDANT

Appearances : Mr J. Vulakouvaki for the plaintiffs
Mr A. Chand for the defendants

Date of Hearing: 31 January 2019

Date of Ruling : 31 January 2019

R U L I N G

[01] This is a summons filed by the defendants in conjunction with an affidavit sworn by them (*'the application'*) seeking the following orders, invoking the inherent jurisdiction of the court:

1. *That the defendants who are registered Trustees of Oololo Ganga Mata Temple be allowed to conduct a Special Annual General Meeting and carry out Elections for Committees and Trustees within next 21 days after the grant of the order.*
2. *That the plaintiffs shall not interfere in any manner or whatsoever way with the Special Annual General Meeting and the Elections held and conducted by the defendants apart from participating in the Elections;*
3. *That Sigatoka Police to be present at the election venue to provide security and safety.*
4. *A police officer from Sigatoka Police Station to be present during the election near the ballot box and during the counting time to see that no dispute and cheating is carried out.*
5. *That the court clarifies on who are all the members of the Temple.*
6. *Alternatively all members as per the list annexed in the affidavit as annexure be allowed to vote in the Special General Meeting.*
7. *Costs of this application be paid by the plaintiffs.*

[02] The application is opposed by the plaintiffs. They have filed an affidavit of Umesh Prasad, the second plaintiff in opposition, to which the defendants have filed an affidavit in reply.

[03] On 19 July 2018, the court ordered of course by consent among other things an order that an Annual General Meeting of Oololo Ganga Mata Temple of Sigatoka ("AGM") shall be convened on 11 August 2018. The AGM was convened as ordered by the court; however it ended up without any new committee being appointed due to a dispute over who the members that could vote at the AGM are. Both parties had submitted two different lists of membership and claimed on the members on their respective lists are members who could vote at the AGM.

[04] The present application seeks clarification on who are the members of the Temple eligible to vote at the AGM.

[05] I have heard the oral submissions put forward by both parties and their affidavit evidence.

[06] Basically, both parties are agreeable that an AGM should be convened as earlier as possible for the smooth function of the temple, however the defendants dispute that the plaintiffs should convene and conduct the AGM. According to them an independent body should convene and conduct the AGM.

- [07] When the court suggested that the AGM could be conducted under the supervision of the Deputy Registrar, Senior Court Officer and a Clerk of the court, both parties promptly accepted the suggestion.
- [08] Thereafter, only issue remains to be determined by the court is that who the members of the temple are. Some members have paid \$2.00 and some \$20.00. This is because there is no definite resolution or rule for payment of membership fee and how much each member has to pay. In the absence of such regulation or rule, I would clarify that all paid up members whether paid \$2.00 or \$20.00 will be members of the Temple and they will be eligible to vote at the AGM to be convened and conducted by this order. Thereafter, new rule or resolution could be made at the subsequent AGM.
- [09] Having considered the affidavits filed by both parties and the oral submissions advanced by both counsel, I think I should grant the orders the defendants seek in their application. I would accordingly grant orders as in prayers 1, 2, 3 & 4 of the application filed on 11 October 2018. Further, I order that the AGM of the Temple shall be convened and conducted under the supervision of the Deputy Registrar, Senior Court Officer and a Clerk of the Court. All paid up members whether paid \$2.00 or \$20.00 shall be eligible to vote at the AGM. I would make no orders as to costs.

Final Orders:

1. The defendants shall convene a Special Annual General Meeting of Oloolo Ganga Mata Temple and carry out Elections for Committees and Trustees within 21 days of this ruling.
2. The plaintiffs shall not interfere in any manner or whatsoever way with the Special Annual General Meeting and the Elections to be held and conducted apart from participating in the Elections.
3. Sigatoka Police is to be present at the election venue to provide security and safety.
4. A police officer from Sigatoka Police Station is to be present during the election near the ballot box and during the counting time to see that no dispute and cheating is carried out.

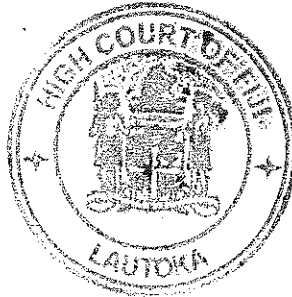
5. All paid up members whether paid \$2.00 or \$20.00 will be members of the Temple and they will be eligible to vote at the AGM to be convened and conducted by this order.
6. The AGM of the Temple shall be convened and conducted under the supervision of the Deputy Registrar, Senior Court Officer and a Clerk of the Court.
7. There shall be no order as to costs.

M.H. Mohammed Ajmeer
31/1/19

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M.H. Mohammed Ajmeer

JUDGE



At Lautoka
31 January 2019

Solicitors:

For the plaintiffs: M/s. Jiten Reddy Lawyers, Barristers & Solicitors

For the defendants: M/s. Amrit Chand Lawyers, Barristers & Solicitors