

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

**CIVIL ACTION NO. HBC 142 OF 2019**

**BETWEEN** : **JAMIAT AHLE HADEES FIJI NADI BRANCH** being a Religious Body registered under the Religious Bodies Registration Act Cap 68 and having its registered office at Mulomulo, Nadi in Fiji.

**PLAINTIFF**

**AND** : **NASEEB MOHAMMED** of Nadi in Fiji, Businessman.

**FIRST DEFENDANT**

**AND** : **AIYAZ BEGG** of Nadi in Fiji, Delivery Person at Yees Cold Storage.

**SECOND DEFENDANT**

**AND** : **FAUZAN FAROOK** of Nadi in Fiji, Panel Beater.

**THIRD DEFENDANT**

**AND** : **MOHAMMED MOSHIM HAIYAT** of Nadi in Fiji, Hairdresser.

**FOURTH DEFENDANT**

**Appearances** : Ms I. Sauduadua for the plaintiff

**Date of Hearing** : 7 June 2019

**Date of Ruling** : 7 June 2019

**R U L I N G**

[on *ex parte* interim injunction]

[01] This is an application for *ex parte* interim injunction.

- [02] By an *ex parte* notice of motion supported with an affidavit filed today (7 June 2019), Jamiat Ahle Hadees Fiji Nadi Branch, the plaintiff seeks the following orders:
- a) *That the Defendants appointment as office bearers of the Jamiat Ahle Hadees Fiji Nadi Branch be stayed until this matter has been heard;*
  - b) *That the Defendants be restrained from carrying out the Annual General Meeting scheduled for 9<sup>th</sup> June 2019 or any further meetings until further Order of this Court.*
- [03] The application is made under Order 29, Rule 1 and 2 of the High Court Rules 1988, as amended ('HCR'), which provides:
- "1 (1) An application for the grant of an injunction may be made by any party to a cause or matter before or after the trial of the cause or matter, whether or not a claim for the injunction was included in that party's writ, originating summons, counterclaim or third party notice, as the case may be.*
- (2) Where the applicant is the plaintiff and the case is one of urgency and the delay caused by proceeding in the ordinary way would entail irreparable or serious mischief such application may be made ex parte on affidavit but except as aforesaid such application must be made by notice of motion or summons." (Emphasis supplied)*
- [04] I have gone through the application, affidavit and the documents attached to the affidavit and heard the submission advanced by counsel for the plaintiff.
- [05] The plaintiff seeks to stop the Special General Meeting scheduled to be held on 9 June 2019, the next Sunday.
- [06] The application is made on the grounds that the defendant's appointment at the last AGM was improper where non-members were allowed to vote in the absence of the proper list of members and that the defendants had failed to submit audited financial report of the plaintiff.
- [07] The meeting scheduled to be held on 9 June 2019, is not an AMG as claim by the plaintiff. It is an SGM to discuss the issues of audited financial accounts and membership.

[08] The action appears to be wrongly constituted, where the Religious body has been named as plaintiff. It is against section 2 of the Religious Bodies Act, 1881 (*the Act*). That section states:

*"2. All suits and proceedings at law instituted or brought by or against any religious body shall be instituted or brought by or against the persons registered as hereinafter provided as trustees for the time being of such religious body and any such suit or proceeding shall be carried to its final termination notwithstanding any alteration in the registered trustees of such religious body while such suit or proceeding is pending. (My emphasis)"*

[09] The plaintiff is a Religious Body registered under the Act. The plaintiff cannot bring an action in its own name. It ought to have brought the action by its registered trustees. In the circumstances, this is a wrongly constituted action. The action offends section 2 of the Act.

[10] I would, therefore, refuse to issue an *ex parte* interim injunction. There will be no order as to costs.



*M.H. Mohamed Ajmeer*  
7/6/19

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M.H. Mohamed Ajmeer  
JUDGE

At Lautoka  
7 June 2019

Solicitors:

For the plaintiff: Lal Patel Bale, Lawyers