

IN THE HIGH COURT OF FIJI
AT LAUTOKA
CIVIL JURISDICTION

HBC 101 of 2021

BETWEEN : **THE BOARD OF TRUSTEES OF SOUTH SEAS CLUB**

PLAINTIFF

AND : **CHUNG LEE** of Simla, Lautoka; **MANSUR KHAN** of Waiyavi Stage II, Lautoka; **RAJENDRA SWAMI** of Naviyago, Lautoka; **JOHN MAHENDRA**, of Malamala Street, Simla, Lautoka; **SANJAY PRASAD** of Simla, Lautoka; **HAROON MOHAMMED** of Vomo Street, Lautoka; **BEN SINGH** of Kuata Street, Simla, Lautoka; **CECIL JAMES** of Malamala Street, Simla, Lautoka; **KANDA SAMI MUDALIAR** of Lautoka; **BRIJESH CHAND** of Banaras, Lautoka; **ANIL KUMAR** of Lautoka; **RAYMOND SINGH** of Drasa, Vitogo, Lautoka; **RAMESH CHAND** of Simla, Lautoka; **NARENDRA SAMI** of Rifle Range, Lautoka.

1ST TO 14TH DEFENDANTS

Appearances : Mr. Aman Ravindra Singh in person as a member of the Board of Trustees
Mr. Wasu Pillay & Mr. R. R. Gordon for the Defendants
Date of Hearing : Ruling on Paper
Date of Ruling : 26 April 2022

R U L I N G

(This amends the earlier Ruling dated 18 February 2022 at paragraph 26 under Order 20 Rule 10 of the High Court Rules 1988).

1. The full background to this is set out in my earlier rulings (see below):

Board of Trustee of South Seas Club v Chung Lee [2021] FJHC 397; HBC101.2021 (21 December 2021)

Board of Trustees of South Seas Club v Chung Lee [2022] FJHC 90; HBC101.2021 (4 March 2022)

Board of Trustees of South Seas Club v Chung Lee [2022] FJHC 183; HBC101.2021 (13 April 2022)

2. On 25 February 2022, the Plaintiff filed a Summons seeking the following Orders to enforce the declaratory Orders I granted on 13 April 2022:

(1) That the Plaintiff's immediately handover and/or cause to handover the administration and physical control of the Southseas Club to the Interim Administration Committee consisting of Mr. Raymond Singh, Mr. Cecil James and Mr. Sanjay Prasad appointed by the Foundation Members on 7 April 2021 at the meeting of the Foundation Members convened by requisition under clause 103 of the Southseas Club Constitution and that such handover include:

- A. All keys to the Southseas Club premises and all associated buildings in the asset register of Southseas Club; and
- B. Keys to the Southseas Club safe; and
- C. All Southseas Club fixtures and fitting; and
- D. All Southseas Club documentation including, but not limited to, archived documents that are previous minutes of the Southseas Club, correspondences and lease documentation; and
- E. Financial documentation and records of the Southseas Club, including but not limited to, all creditors and debtors listing, stock/inventory records, cheque books, receipt books, payment vouchers with associated invoices, unpaid invoices and all things in progress; and
- F. Passwords, usernames and all things associated with all social media accounts of Southseas Club; and
- G. All banking details, including but not limited to, details of current accounts, new accounts opened, signatories to accounts and all details associated with all bank accounts of Southseas Club; and
- H. All records that are material and relevant to all tenants of Southseas Club; and
- I. All and any things that is required and/or necessary in the transition from an existing management committee to a new management committee.

(2) That alternatively, that the Fiji Police Force render any and all assistance to the Interim Administration Committee consisting of Mr. Raymond Singh, Mr. Cecil James and Mr. Sanjay Prasad appointed by the Foundation Members on 7 April 2021 at the meeting of the Foundation Members convened by requisition under clause 103 of the Southseas Club Constitution, to immediately takeover and/or cause to take over the administration and physical control of the Southseas Club with the reasonable use of force, if required, and to take physical possession and control of:

- A. All keys to the Southseas Club premises and all associated buildings in the asset register of Southseas Club; and
- B. Keys to the Southseas Club safe; and

- C. All Southseas Club fixtures and fitting whether in the Southseas Club premises or elsewhere; and
- D. All Southseas Club documentation including, but not limited to, archived documents that are previous minutes of the Southseas Club, correspondences and lease documentation; and
- E. Financial documentation and records of the Southseas Club, including but not limited to, all creditors and debtors listing, stock/inventory records, cheque books, receipt books, payment vouchers with associated invoices, unpaid invoices and all things in progress; and
- F. Passwords, usernames and all things associated with all social media accounts of Southseas Club from Social Media platforms, if required, and if the Plaintiff's do not give the relevant information required by the Interim Administration Committee; and
- G. All banking details, including but not limited to, details of current accounts, new accounts opened, signatories to accounts and all details associated with all bank accounts of Southseas Club from all or any Bank that may hold records relevant to Southseas Club; and
- H. All records that are material and relevant to all tenants of Southseas Club that are immediately available in the Southseas Club premises or other properties belonging to the Southseas Club; and
- I. All and any things that is required and/or necessary from the new management committee to take over the management and control of Southseas Club.

(3) That by way of clarification, the costs awarded against the Plaintiff on 18 February 2022, are costs to be paid by Aman Ravindra Singh, Sheikh Irshad Ali Sahib and Jan Nissar Mohammed.

(4) That the Fiji Police Force render all and any assistance necessary to enforce the orders of the Court, if the Court grants orders in terms of prayer 2.

(5) That costs of this action and this application be paid by Aman Ravindra Singh, Sheikh Irshad Ali Sahib and Jan Nissar Mohammed.

(6) That the parties be at liberty to apply for further orders.

(7) Such further or other order(s) that the Honorable Court may deem fit, just, expedient and necessary in the circumstances.

3. As I noted in my ruling dated 13 April 2022:

1. The overall effect of all the above Orders was that the Board of Trustees was no longer validly in power and control over the affairs of the South Seas Club. Pursuant to the said Orders, the defendants took steps to enforce the Orders by writing to the Trustees to step down.

However, in seeking to oust the plaintiffs from “control” of the South Seas Club, the defendants were met with such resistance and recalcitrance by the plaintiffs.

4. The prayers which the defendants seek in the application now before me are simply to “work out” and to “implement and give effect to” the declaratory orders granted on 13 April 2022.
5. I note in particular that at paragraphs (3) and (5) of the application – the defendants seek the following Orders:

(3) That by way of clarification, the costs awarded against the Plaintiff on 18 February 2022, are costs to be paid by Aman Ravindra Singh, Sheikh Irshad Ali Sahib and Jan Nissar Mohammed.

(4)

(5) That costs of this action and this application be paid by Aman Ravindra Singh, Sheikh Irshad Ali Sahib and Jan Nissar Mohammed.

6. I am of the view that the issues raised in this case initially, had to be borne by the Club up to the point of the determination of the issues on 13 April. Thereafter, the trustees must bear any costs personally. For the avoidance of doubt, the plaintiffs are to personally bear the costs awarded on 13 April 2022.
7. I grant Order in Terms accordingly save for the costs issue which I have noted above at paragraph 6.



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Anare Tuilevuka
JUDGE
26 April 2022