

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

**CIVIL ACTION NO. HBM 18 OF 2022**

**IN THE MATTER OF COMMITTAL PROCEEDINGS** under Order 52 of the High Court Rules 1988 against the Defendant/ Respondent for Contempt of Court Orders.

**BETWEEN** **BIJMA KUMARI aka BIJMA KUMARI SINGH aka BIJAM KUMARI** of 5 Oliver Street, Bexley, North NSW 207, Australia as Executrix and Trustee of the Estate of Bhagat Singh  
**PLAINTIFF/ APPLICANT**

**AND** **PRANITESH SINGH and SONIA SINGH** both of Sabeto, Nadi  
**DEFENDANTS/ RESPONDENTS**

**APPEARANCES** : Ms. Arthi B. Swamy for the Plaintiff/ Applicant  
No appearance for the Defendants/ Respondents

**DATE OF HEARING** : 26<sup>th</sup> April, 2022

**DATE OF RULING** : 26<sup>th</sup> April, 2021

**RULING**

[Leave to issue committal proceedings]

1. This is an application for leave to issue committal proceedings.
2. By its ex parte application filed on 20<sup>th</sup> April, 2022 together with an affidavit sworn by BIJMA KUMARI a.k.a BIJMA KUMARI SINGH a.k.a BIJAM KUMARI, the Plaintiff/Applicant ('the Applicant') seeks leave to issue committal proceedings against PRANITESH SINGH the first named Defendant/Respondent ('the Respondent') for violating the injunctive orders made by the Magistrate's Court of NADI against both the Respondents.
3. The application is made pursuant to Order 52, Rules 1 & 2 of the High Court Rules 1988 ('HCR') and under the inherent jurisdiction of the court. The relevant rules provide:

***"Committal for contempt of court (O 52, R 1)***

*1.-(1) The power of the High Court to punish for contempt of court may be exercised by an order of committal.*

*(2) This Order applies to contempt of court-*

*(a) Committed in connection with-*

*(i) Any proceedings before the Court; or*

*(ii) Proceedings in an inferior Court;*

*(b) Committed otherwise than in connection with any proceedings.*

*(3) An order of committal may be made by a single Judge.*

*(4) Where by virtue of any enactment the High Court has power to punish or take steps for the punishment of any person charged with having done anything in relation to a court, tribunal or person which would, if it had been done in relation to the High Court, have been a contempt of that Court, an order of committal may be made by a single Judge.*

***Application for order of committal (O 52, R 2)***

*2.-(1) No application for an order of committal against any person maybe made unless leave to make such an application has been granted in accordance with this Rule.*

*(2) An application for such leave must be made ex parte to a Judge in chambers, and must be supported by a statement setting out the name and description of the Applicant, the name, description and address of the person sought to be committed and the grounds on which his or her committal is sought, and by an affidavit, to be filed before the application is made, verifying the facts relied on.*

*(3) The Applicant must give notice of the application for leave not later than the preceding day to the Registry and must at the same time lodge at the Registry copies of the statement and affidavit."*

4. The background surrounding this application is as follows:

- a. The Applicant obtained from the Magistrate's Court of NADI an interim injunction against the Respondents on 30<sup>th</sup> January 2019, which was sealed on 22<sup>nd</sup> February 2019 and reportedly served on the Respondents on 21<sup>st</sup> March 2019 restraining them as averred in paragraph 5 I, ii, and iii of the Affidavit in Support.
- b. The said interim injunction order was subsequently made permanent on 1<sup>st</sup> May 2019, sealed on 20<sup>th</sup> May 2019 and reportedly served on them on 23<sup>rd</sup> May 2019.
- c. The Applicant alleges that the first named Respondent on several occasions has entered the land in question and either by himself or by his servants and agents has been continuing to violate the said orders in the manner stated in paragraph 13 of the Affidavit in support.
- d. The Applicant applies for leave to issue committal proceedings against the first named Respondent to punish him for the offence of contempt of court committed in respect of the injunction order issued by the Magistrate's Court of NADI.

5. An order of committal cannot be made unless leave to make such an application has been granted. The application for leave to issue committal proceedings may be made ex parte to a judge in Chambers (see O 52, R 2 (2)).
6. The Applicant has filed an affidavit verifying the facts relied on. The application is supported by a statement setting out the name and description of the Applicant, the description and address of the first named Respondent, the person sought to be committed and the grounds upon which the committal is sought as required by the HCR, O 52, R 2 (2). The Applicant has complied with the HCR, O 52, R 2.
7. Being satisfied that the Applicant has complied with all the requirements envisaged in O 52, R 2 for an application for leave to issue committal proceedings, I hereby grant leave to the Applicant to apply for an order of committal of the first named Respondent for disobeying the order of the Magistrate's Court of NADI, which was made permanent against him as stated in the paragraph 4 above.
8. Since leave has been granted to apply for an order of committal, the application for the order must be made by motion and there must be 8 clear days of gap between the date of service of the notice of motion and the day for the hearing (O 52, R 3 (1)). This leave will expire after 14 days from today (26<sup>th</sup> April 2022 O 52, R 3 (2)). The notice of motion, accompanied by a copy of the statement and affidavit in support of the application for leave must be served personally on the Respondent (O 52, R 3 (3)).
9. The Result
  - i. Leave to apply for an order of committal is granted.
  - ii. This leave will expire after 14 days from today (26<sup>th</sup> April 2022).
  - iii. The application for the order of committal must be made by motion giving 8 clear days between the service of the notice of motion and the hearing date.
  - iv. The notice of motion, with a copy of the statement and affidavit in support of the application for leave, must be served personally on the first named Respondent.



  
**A.M. Mohammed Mackie**  
Judge

At High Court Lautoka this 26<sup>th</sup> day of April, 2022

**SOLICITORS:**

For the Applicant: **M/S Patel & Sharma, Barristers & Solicitors**

For the Respondent: **No appearance**