

IN THE HIGH COURT OF FIJI AT SUVA
CIVIL JURISDICTION

Civil Action No: HBC 220 of 2021

BETWEEN: **ATISHMA DEVI** of 5 Vesi Street, Flagstaff, Suva Sales girl as the
Administer and Trustee in the **Estate of Ravindra Singh** late 5 Vesi Street,
Flagstaff, Suva, Fiji, Taxi Driver, Deceased.

Plaintiff

A N D: **JEETENDRA SINGH** of Australia

1st Defendant

A N D: **SAJIV SINGH** and **SHALEN SINGH**, of Vesi Street, Flagstaff, Suva, as the
Personal Representative of the **ESTATE OF CHATTAR HARI SINGH** late 5
Vesi Street, Flagstaff, Suva, Fiji, Deceased.

2nd Defendant

Appearance : Mr. Ashneel Nand for the plaintiff
 Ms. Tulia Cakau for the defendants

Hearing : Friday, 21st October, 2022 at 2.30pm

Decision : Friday, 28th October, 2022 at 9:00am

DECISION

- [1]. Chattar Hari Singh died on 26.01.2004 leaving a Will. The property comprised in Crown Lease No. 1727 being Lot 11, Section 1 Flagstaff subdivision, situated in the province of Rewa is registered in the names of late Chattar Hari Singh, Jitendra Singh and late Ravindra Singh.

- [2]. The plaintiff's husband, late Ravindra Singh died in the year 2016. Letters of Administration was granted to the plaintiff in the estate of Ravindra Singh in the year 2017.
- [3]. The second defendants are the personal representatives of the estate of Chattar Hari Singh. They await the grant of probate. On 28.10.2021 the plaintiff filed an application seeking an order for sale of the property comprised in Crown Lease No- 1727. After filing the application the plaintiff and the defendants entered into a terms of settlement in relation to the said application for sale of the property.
- [4]. On 06.09.2022 the plaintiff through her solicitors filed summons for an order that the second defendants provide the full rental accounts for the bottom flats from the year 2012 to the date of the sale of property.
- [5]. The plaintiff's main concern about the rental accounts was that at which point in time the plaintiff become entitles to information in estate of Chattar Hari Singh.
- [6]. Ms Cakau counsel for the second defendants submits and I wholly accept that the plaintiff is entitled to the full rental records claimed from 2017 and not from 2012 because the plaintiff's late husband passed away in 2016 and the letters of administration in his estate was granted in the year 2017. Section 9 of the Succession, Probate and Administration Act [Cap 60] provides:

*Upon the grant of probate or administration, **all property of which a deceased person dies possessed, or entitled to, in Fiji shall, as from the death of such person, pass to and become vested in the executor to whom probate has been granted, or administrator for all the estate and interest of the deceased therein**, in the manner following, that is to say-*

- (a) *on testacy or on partial intestacy, in the executor or administrator with the will annexed; and*
- (b) *on intestacy, in the administrator.*

[Emphasis added]

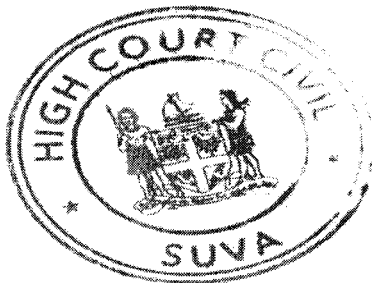
- [7]. The second defendants do not object to the release of information to the plaintiff wholly rather suggest that her entitlement to the information requested only relates to

the point on time from which her husband the late Ravindra Singh has deceased. I conclude that the plaintiff is entitled to the full rental records from 2017 and not from 2012.

- [8]. However, in my judgment, the application before this court is premature until the grant of probate to the second defendants.

ORDERS

- [1] The application for full rental records from the year 2012 is refused.
- [2] The plaintiff to pay the defendants' costs of these proceedings summarily assessed in the sum of FJD 750.00 to be paid within seven days from the date of this decision.



Jude Nanayakkara
JUDGE

High Court – Suva
Friday, 28th October, 2022