

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

CIVIL ACTION No. 159 of 2020

BETWEEN : **KANIAPA AKA KANIAPPA GOUNDER & NAGAPPA** both of Malolo,
Nadi, Farmers.

PLAINTIFF/RESPONDENT

AND : **SHAKIL SHARMA** of Malolo, Nadi, Unemployed.

DEFENDANT/APPELLANT

Appearances : Mr. U. Koroi for the Respondent/Plaintiff
Appellant/Defendant in Person
Date of Hearing : 04 May 2023.

DIRECTIONS

1. On 17 June 2022, the Learned Master delivered a Ruling in favour of the plaintiff's application under section 169 of the Land Transfer Act and ordered that the defendant immediately deliver vacant possession of the property in question to the plaintiff and that the defendant pays \$1,000 – 00 (one thousand dollars only) in costs.
2. On 04 July 2022, the defendant (now appellant) filed the following:
 - (a) Notice and Grounds of Appeal
 - (b) a Summons for Stay returnable 04 August 2022 supported by an affidavit he swore on 04 July 2022.
3. The matter was called before me on the following dates:

04.08.22	No appearance by the Respondent/Plaintiff. Adjourned to 01.09.22 for hearing.
01.09.22	14 days given to both parties to file and serve written submissions. Adjourned to 22.09.22 for mention to fix a hearing date.
16.09.22	Appellant/Defendant files written submissions
22.09.22	14 days to Respondent /Plaintiff to file written submissions. Plaintiff to reply 14 days thereafter. Adjourned to 03.11.22 for hearing.
03.11.22	Appellant/Defendant complains Respondent/Plaintiff has not served submissions. Adjourned to 05.12.22 for mention to fix hearing.
05.12.22	Appellant/Defendant absent due to death in family. Letter received. No appearance by Respondent/Plaintiff. Adjourned to 17.01.23 for mention to fix hearing. NOAH to parties.

17.01.23 Mr. Koroi appeared on instructions from Prakashan & Associates for Respondent/Plaintiff. No instructions on suitable date. Appellant/Defendant appeared in person. Adjourned to 04.05.23 for hearing.

04.05.23 Mr. Koroi appeared on instructions from Prakashan & Associates for Respondent/Plaintiff. Prakashan is preparing his submissions. Not ready yet. Submits that Appellant proceed to present his case orally today while Prakashan completes their submissions.

4. In court today, the appellant had come prepared and said that he preferred to make oral submissions.
5. I observe that the appellant, who has been appearing in person had filed submissions in the past to support his stay application, hardly speaks a word of English in court. He requires the Court Clerk to interpret everything I say to him, and everything he says to me.
6. It is clear to me that he was assisted by someone who was skilled in the law in all documents and processes that he has filed to date. One can only assume that the appellant would have spent a great deal of effort, and perhaps some money, to secure a person to assist him in writing submissions. He has come to court today ready to proceed with the hearing, and knowing that he could rely on the Clerk to interpret between the two is us.
7. In that light, Prakashan & Associates' suggestion that the parties be timetabled to file submissions, only reveals that they (Prakashan & Associates) have not even prepared submissions and were not ready for today's hearing. Furthermore, if I were to give directions to that effect, the directions would only have the effect of putting the appellant to the detriment of having to find someone skilled in the law to assist in writing his submissions in English.
8. I refuse to entertain counsel's suggestion. He should be prepared on the next occasion. If he cannot be present in court, then he should properly instruct another counsel to defend the appeal on his behalf. Mr. Koroi is more than capable to execute such an instruction. He could have been instructed today to defend the appeal.

ORDERS

9. The hearing marked for today is vacated and adjourned to 01 June 2023 at 10.30 a.m.
10. I grant costs to the appellant for wasted appearance which I summarily assess at \$200 – 00 (two hundred dollars only). Costs to be settled before the next date.




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Anare Tuilevuka.

JUDGE