

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

CIVIL ACTION NO. HBA 4 OF 2022

BETWEEN : **SAROJNI DEVI** of Sabeto, Nadi **APPELLANT**

AND : **LAISANA and MALONI NADOI** of Vunitogoloa Village, Rakiraki **RESPONDENT**

BEFORE : Hon. Mr. Justice Mohamed Mackie

APPEARANCES : Appellant in Person
Respondent absent and no represented

DATE OF HEARING : 27th October, 2022 (by way of written submissions)

DATE OF JUDGMENT : 27th January, 2023

JUDGMENT

1. The Appellant made a claim in the Small Claims Tribunal of Nadi, seeking to recover \$305.22 from the Respondent, being the alleged damages caused to the flat given on rent to the Respondent by the Appellant. The alleged damages were to the Floor Carpet, Bed Room Door Board, Bed-Room wall (patches), and Leaking sink out-let.
2. The Respondent refuted the claim, stating that those damages were already there prior to she came into the house and though he had requested the Appellant to repair, she had not attended to the same.
3. The Referee of the Small Claims Tribunal, after hearing the matter, by his Order dated 12th March, 2021 dismissed the Appellant's claim on the ground that there is no evidence to justify the claim.
4. Against the decision of the Small Claims Tribunal, the Appellant appealed to the Magistrate's Court of Nadi, but without success. This Appeal is against the judgment of the learned Magistrate, dated 14th March, 2022, pronounced dismissing the Appeal.
5. The Respondent, despite being duly notified of this Appeal, was absent and not even had arranged a counsel to represent her before this Court. The Appellant appeared in person and opted to dispose the Appeal by way of written submissions, instead of oral submissions. Accordingly, she filed her submissions on 17th October, 2022.
6. The Appellant has relied on total number of 32, purported, grounds of Appeal, all of which are either irrelevant and/ or vague and or fall out of the ambit of the Small Claims Tribunal Act, as far as Appeal is concerned. Thus, those, purported, grounds do not warrant even reproducing of them here, let alone considering those grounds, which would, undoubtedly, be a futile exercise.

7. Under section 33(1) of the Small Claims Tribunal Act 1991 any party to proceedings before a Tribunal may appeal against an order made by the Tribunal under section 15(6) or section 31(2) on the grounds that:
- a) The proceedings were conducted by the Referee in a manner which was unfair to the Appellant and prejudicially affected the result of the proceedings; or
 - b) The Tribunal exceeded its jurisdiction.
8. The proceedings held before the Referee, do not show that he conducted the proceedings in a manner which was unfair and/or prejudicial to the Appellant. The Court carefully considered the proceedings held before the Referee. He has given ample opportunity for the Appellant to present her evidence before the Tribunal. The Appellant has called two witnesses on her behalf before the Tribunal and both of them despite being close relatives of the Appellant, have, according to the Referee, have spoken the truth as to the fact that they did not see any one causing alleged damages. There has not been any eye witness to vouch on causing of damages, as alleged by the Appellant.
9. The Appellant has been given due hearing by the Referee. I don't see any procedural irregularity or unfairness during the proceedings before the Tribunal. The Appellant failed to adduce evidence through an eye witness to the allegation of causing damages. The Referee, after considering the evidence of the Appellant has made correctly made his order and I don't see any room for the Learned Magistrate to have interfered with the Order of the Referee.
10. The learned Magistrate, who heard the Appeal, has taken all these factors into consideration before arriving at his finding. It is a well-founded judgment by the learned Magistrate. The Appeal of the Appellant is without any merit. In my view the learned Magistrate is correct in arriving at the conclusion that the decision of the Tribunal is within the powers conferred upon it by the legislation.
11. For the reasons aforementioned the court makes the following orders.
- a. The Appeal of the Appellant is dismissed.
 - b. Judgment of the learned Magistrate dated 14th March, 2022 is hereby affirmed.
 - c. The decision of the SCT Referee dated 12th March, 2021, shall remain intact.
 - d. No costs ordered.
 - e. Original records, along with a copy of this judgment, shall be dispatched to the Magistrate's court of Nadi, forthwith.


A.M. Mohamed Mackie
Judge



At High Court Lautoka this 27th day of January, 2023.

SOLICITORS:

For the Appellant:

In Person

For the Respondent:

Unrepresented