

IN THE HIGH COURT OF FIJI
AT LAUTOKA
CIVIL JURISDICTION

HBC 258 of 2020

BETWEEN: **VINITA DEVI** of Karavi, Ba, Domestic Duties as Sole Executrix and Trustee of the **ESTATE OF CHANDRAKALI aka CHANDAR KALI aka CHANDRA KALI**
PLAINTIFF

A N D: **DHARAM RAJI** and **RAM DEVI** both of Veisaru, Ba, Domestic Duties as Administrators of the **ESTATE OF RAM SUDH** of Veisaru, Ba.
1st DEFENDANT

A N D: **THE DIRECTOR OF LANDS**
2nd DEFENDANT

Appearances: Mr. Nand S. for the Plaintiff
 Ms. Begum for the first Defendant
 Mr. Mainavolau J. for the second Defendant
Date of Hearing: Ruling on Submissions
Date of Ruling: 16 June 2023

R U L I N G

1. On 22 October 2020, S. Nand Lawyers filed an Originating Summons seeking various declaratory and mandatory injunctive orders for the benefit of Vinita Devi (“Devi”).
2. In a nutshell, what Devi wants is for the first Defendant to act and distribute the assets of the estate of the late Ram Sudh.
3. Devi also seeks an order that the Director of Lands issues a lease to Devi pursuant to the Will of the late Ram Sudh.
4. Ram Sudh was the patriarch of the family. He died testate on 09 May 1995.
5. Probate No: 31911 was granted to Ram Sudh surviving wife, namely Chandra Kali.

18. This is essentially a dispute between three sisters (or their estates) who are daughters of Ram Sudh. Ram Sudh died testate leaving all his properties to his wife, the late Chandra Kali who survived him for some years and was the sole executrix of his estate. Chandra Kali purportedly left a Will bequeathing all to one only of the three daughters, who is now also deceased and is the mother of the plaintiffs.
19. As I have said, there is an allegation by the defendants that Chandra Kali had executed all legal documents during her lifetime by impressing a thumbprint. However, on her Last Will and Testament – by which the plaintiffs stand to benefit solely to the exclusion of the defendants – there is a signature on the document purportedly of Chandra Kali.
20. If Chandra Kali's Will is to be upheld now then everything goes to the plaintiff ultimately and her siblings.
21. If it is to be impugned now, then a hearing date to determine the allegation of fraud involved and if that allegation is established – then the land will have to be distributed in terms of the intestate provision of the Succession, Probate and Administration Act – that is – that the three sisters (or their estates) will have to get a third each.
22. I will err on the side of caution and adjourn the matter to a trial date to determine the question raised about the authenticity of the Will of Chandra Kali. Case adjourned to 03 July for directions. Meanwhile, the parties are encouraged to settle and attempt mediation.



Anare Tuilevuka
JUDGE
Lautoka



16 June 2023