

Plaintiff is the current registered proprietor along with Daya Wati - they are joint tenants.

- [4] The other matter that the Plaintiff deposes to is that the parties executed an Agreement to Lease in February 2021. A copy of the Agreement is supplied. The terms include that the Defendant is to pay rental of \$1,000 per month. The Plaintiff deposes that the Defendant has fallen into arrears and annexes a letter from her solicitors, dated 4 March 2024, notifying the Defendant to vacate the property within 30 days – according to the contents of the letter the Defendant was then in arrears of \$15,000.
- [5] The other relevant matter is that the Court has received an Affidavit of Service demonstrating that the Originating Summons was served on the Defendant on 2 August 2024.
- [6] The matter was called today. As stated, there is no appearance by or for the Defendant and the question is whether the Court can and should make orders that the Defendant deliver vacant possession of the property.
- [7] The requirements that the Court must consider before granting the order are specified under Part 24 of the Land Transfer Act. They are as follows:
- i. That pursuant to s 169 the Plaintiff is the last registered proprietor of the property. I am satisfied that she is, as is demonstrated by the Certificate of Title annexed to the Plaintiff's affidavit.
 - ii. Pursuant to s 170 the particulars of the property must be stated in the summons, which they are.
 - iii. Where a defendant does not appear there are two requirements that must be satisfied under s 171 before the Court can grant the order. These are, firstly, proof of service that the summons has been served on the Defendant, and, secondly, proof of title by the Plaintiff. As I have already stated, both have been established by the Plaintiff.

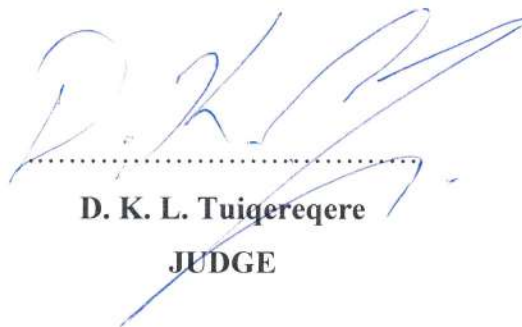
[8] Finally, I note that the Defendant may, under s 172, resist the summons but must prove to the satisfaction of the Court that she has a right to possession of the property. Given that the Defendant has not appeared today the Court cannot be so satisfied.

Orders

[9] Accordingly, I make the following orders:

- i. The Defendant must deliver to the Plaintiff vacant possession of all the property comprised and described in Certificate of Title number 15921 being Lot 10 on Deposited Plan No. 4055 situated at Lot 10, Tagimoucia Place, Laucala Beach Estate, Suva Vitilevu.
- ii. The execution of the order for vacant possession in i. is stayed to 30 September 2024 to allow the Defendant time to relocate.
- iii. The Plaintiff is entitled to costs summarily assessed in the amount of \$500 to be paid by the Defendant within one month.




D. K. L. Tuiqereqere
JUDGE

Solicitors:

Shelvin Singh Lawyers for the Plaintiff