

IN THE HIGH COURT OF FIJI AT SUVA

CIVIL JURISDICTION

CASE NUMBER: HBC 81 OF 2025

BETWEEN: IONE TAKAPE KANAWALE 1st Plaintiff

TEVITA WAVEREILAGI TAMANIKAIWAIMARO 2nd Plaintiff

JOHN SAMISONI, ALFRED POWELL and ILAITIA KOROI as
trustees of Lami Gospel Assembly Churches
3rd Plaintiffs

AND: LUTE POWELL a.k.a. LUTE TIKOIMAKOGAI 1st Defendant

METUI SUKA POWELL A.K.A. METUISELA SUKA 2nd Defendant

SISA TIKOIMAKOGAI 3rd Defendant

EMITAI DAVETA RAWAILUI a.k.a. EMITAI BULI RAWAILUI 4th Defendant

AARON RAIBEVU POWELL 5th Defendant

THE REGISTRAR OF TITLES 6th Defendant

Appearances: Ms. L. Vaurasi for the Plaintiff.
Mr. S. Fatiaki for the 1st – 5th Defendants.
No Appearance of the 6th Defendant.

Date/Place of Judgment: Thursday 27 March 2025 at Suva

Coram: Hon. Madam Justice Anjala Wati.

RULING

(Injunctive Reliefs)

A. Catchwords:

RELIGIOUS BODIES REGISTRATION ACT 1881- *who are the proper trustees of the Church – Does the Church have a Constitution which provides for appointment of the trustees, and, if not, how are they to be appointed - who has the right to manage the affairs of the Church- how are the trustees to be registered.*

B. Legislation:

1. Religious Bodies Registration Act 1881: ss. 3 to 7.
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Application

1. The plaintiffs are seeking injunctive reliefs against the defendants. The reliefs sought are for orders restraining the 1st to 5th defendants from:
 - (i) *registering themselves as trustees for the Lami Gospel Assembly Churches (“Church”) with the Registrar of Titles and holding themselves out and/ or representing themselves as trustees of the Church;*
 - (ii) *registering the resignation of John Samisoni as a trustee of the Church with the Registrar of Titles;*
 - (iii) *dealing with Native Lease Number 10814, Lot 1 Section 14, Lami Subdivision, Suva consisting of 2 acres and 16 perches (“Native Lease”);*

- (iv) *attending to any construction work or renovation work to any of the buildings on the Native Lease;*
 - (v) *restricting the plaintiffs and church members from accessing the buildings on the Native Lease;*
 - (vi) *restricting Ani Saqa Qio Sigarara ("Ani") and her family members from accessing residence number 2 also known as the Youth of Christ building on the Native Lease;*
 - (vii) *accessing and/or withdrawing any funds from the Churches ANZ Account Number 1238386; and*
 - (viii) *using the Church property for Church Services/Ceremonies/Activities that are not in line with the Churches principles and policies or running any further religious denominations/Church on the Native Lease.*
2. The plaintiffs have filed two affidavits in support of the application. The first is filed by the 1st plaintiff on 21 February 2025. The second is filed by the 2nd plaintiff on 28 February 2025.
 3. The defendants has also filed an affidavit in opposition to the application for the injunctive reliefs. The affidavit in opposition was filed on 11 March 2025.
 4. The 1st, 2nd, 3rd, and 5th defendants are family members. The 1st defendant is the wife of the 3rd defendant. She is also the mother of the 2nd and 5th defendants. The 2nd and 5th defendants are brothers. The 1st defendant is the former wife of Alfred Powell, who is now deceased. Alfred Powell was one of the first registered trustees of the Church. The 4th defendant is a close friend of the 1st defendant.
 5. Initially, the Church has 3 registered trustees. Now there is only one registered trustee named John Samisoni. John Samisoni has not been actively involved in running the affairs of the Church for some time.

6. On 1st December 2024, in its Annual General Meeting, the Church members appointed new trustees. They were the 1st and 2nd plaintiffs and the 2nd and 4th defendants. John Samisoni had written to the plaintiffs to say that he wishes to resign as a trustee.
7. When the 1st and 2nd plaintiffs were attending to the registration requirements, the 1st, 2nd, 4th, and 5th defendants, on 29 January 2025, lodged with the Registrar of Titles office, certain documents to register them as trustees. Then on the same day, the 1st defendant sends messages to the plaintiff's to inform them that these defendants have taken ownership of the Church.
8. The plaintiffs concern surrounds the 1st to 5th defendant's right to act as the trustees and to hold themselves out when the Annual General Meeting preceding their lodgment at the Registrar of Titles office had already appointed the trustees. The plaintiff's say that the defendants do not have the mandate of the members to the register themselves as the trustees of the Church. The dispute between the parties surrounds that.

Issues

9. The issues before the court are:
 - (1) *Does the Church have a Constitution which provides for appointment of trustees? If not, how are the trustees to be appointed?*
 - (2) *Who are the proper trustees of the Church?*
 - (3) *Were these trustees properly appointed? and*
 - (4) *Who has the right to manage the affairs of the Church?*

Plaintiffs Position

10. The 1st and 2nd plaintiffs have filed an affidavit in support of the injunctive reliefs sought against the 1st to 5th defendants. It is deposed that Church was registered with the 6th defendant as a religious body in 1994 with Registration Number 373461.
11. The Church relocated multiple times before establishing its current place of worship at Lami. It located from 84 Queen's Road to Tradewinds, from Tradewinds to Nukuwatu Street, from Nukuwatu Street to Delainavesi, and from Delainavesi to its current location in Lami. The initial fellowship used to be at Naimawi Street.
12. The 1st plaintiff is an elder of the Church. He has been a member of the Church since 1997. He joined the Church in 1985. The 2nd plaintiff is a Deacon of the Church. He has also been a member of the Church since 1997.
13. Initially the church had three trustees. They were Josua Sereki, Alfred Powell and Bineshwar Singh.
14. In 1995, the Church acquired its current property, the Native Lease 10814 which is registered in the name of the Church. The property was purchased through an ANZ mortgage, with Bineshwar Singh, the initial trustee, acting as guarantor. He used his residential property as security.
15. In 1999, the Youth for Christ Office ("YFC") (also known as residence 2) was constructed at the rear side of the property which has since been converted into a residential unit.
16. In 2006, the Church conducted a bible study based on Pastor Rick Warrens "40 Days of Purpose". During this period, the elders agreed to rename the Church from Lami Gospel Assembly Churches to Lami Gospel Community Church to foster a more welcoming identity for the community. However, no amendments were made to the name at the Titles Registry.

17. In 2007, the trustees were amended to include Alfred Powell, John Samisoni and Ilaitia Koroi. All the trustees are now deceased except for John Samisoni.
18. Following this amendment, a new Church hall was built and officially commissioned, since then Lami Gospel Assembly Churches also known as Lami Gospel Community Church have continued to conduct worship services at this location. At that time, the Church Pastor was Alfred Powell, the husband of the 1st defendant and father of the 2nd defendant. They all resided on the property.
19. Alfred Powell passed away in 2015. However, no amendments were made to the trustees' records. Despite this, worship services continued without any interruptions.
20. In 2016 the Eldership authorized Ani to reside in the vacant flat on the Church premises. Initially, she occupied the flat located behind the residence before later moving to the bottom flat of the YFC building.
21. In 2021, the 1st defendant requested to be released from fellowship to marry Pastor Sisa Tikoimakogai, the 3rd defendant, who was serving as a Pastor at Kinoya Baptist Church. The elders at the time were Jone Takape Kanawale, Peter Kwong Wah, and Tevita Tamani. They granted the request and issued a letter of release on 15th April 2021.
22. In 2022, structural concerns arose when two load bearing posts showed signs of rot. An inspection was requested from Andrew Singh, an engineer from Lautoka Gospel via phone. This did not materialize due to scheduling conflicts.
23. In February 2024, the trustee Ilaitia Koroi passed away, leaving two trustees' positions vacant. Additionally, the remaining trustee John Samisoni ceased fellowship after COVID-19 restrictions as he did not take the vaccine.
24. At that time, the people who led the Church were Jone Takape Kanawale, Tevita Tamani, and Jousa Sereki and three other deacons namely Joape Ratu, Metuisela Suka and Tevita

Tamanikaiwaimaro Jnr. (the 2nd Plaintiff). Tevita Tamani, Josua Sereki and Jope Ratu are now deceased.

25. In mid-2024, the 1st defendant and her husband moved back into the property unbeknownst to the church leadership. It was around the same time that the 4th defendant Emitai Buli Raiwalui and his wife began attending fellowship.
26. In 2024, when the 1st defendant moved back, the members that were consistently worshipping were Asinate Korocowiri, Mereseini Tamani, Mere Senikau Kanawale, Ani Sigarara, Metuisela Suka, Emitai Buli Raiwalui, Akanisi Raiwalui, Sulueti Vadra, Anjina Devi, Ro Dovi Mataitini, Makereta Mataitini, Josifini Kanawale, Stella Utonivesikula, Miliana Ratu, Aisea Tamanikaiwaimaro, Tevita Tamanikaiwaimaro and Jone Takape Kanawale.
27. In August 2024, the 1st defendant met with Deacon Tevita Tamanikaiwaimaro to express concerns regarding the weekly AWANA program for the children. She subsequently proposed that her husband be appointed Pastor of the Church.
28. In September 2024, Emitai Buli Raiwalui was dedicated as Deacon of the church.
29. On 1 December 2024, the church held its AGM. Reports were tabled and new trustees were appointed. They were Jone Takape Kanawale (1st plaintiff), Emitai Buli Raiwalui (4th defendant), Metuisela Suka (2nd defendant), and Tevita Tamanikaiwaimaro (2nd plaintiff).
30. Later in December 2024, former Church member David Gibson, an engineer, formerly with Auckland City Council, whilst visiting, conducted a preliminary inspection following which he requested the structural design for further analysis. This was agreed verbally where the leadership team would then follow this up once the building designs were located.
31. In January 2025, 1st and 2nd plaintiffs, Jone Takape Kanawale and Tevita Tamanikaiwaimaro had started the amendment process by proceeding to attain police clearance.

32. On 28 January 2025, the former trustee John Samisoni sent a Facebook Messenger message to Mere Senikau Takape, Asinate Korocowiri and Tevita Tamanikaiwaimaro stating that he had resigned as a trustee of the Church and that the message recipients inform the elders of the Church as there were new trustees for the Church.
33. On 29 January 2025, the 1st defendant attempted to officially register the new trustees but they are not yet registered. The Titles Registry has still not located the Constitution of the Church.
34. On 30 January 2025, the 1st defendant sent the following message:

"Greetings, the following items were what I wanted to discuss with you at church today:

- 1. The church hall will be closed on Sunday 02/02/25 due to the rot on some posts in the hall.*
- 2. I know you have registered Lami Gospel Community Church. For this reason, I request that you not touch anything in the church.*
- 3. The Lami Gospel Assembly Churches have retaken authority over the church fellowship along with all the church assets.*
- 4. Request that we split the money in the bank account between Lami Gospel Community Church and Lami Gospel Assembly Churches.*
- 5. Please request Tevita Tamani to resign as a signatory of the bank account as it is the property of the Lami Gospel Assembly Churches.*

Hope you receive this message in a Christ like manner.

Thank you very much Lute (On behalf of the Trustees of the Lami Gospel Assembly Churches)".

35. The plaintiffs say that the 1st defendant has already started giving instructions and representing herself as one of the trustees of the Church.
36. On the Church property are 2 residences and the Church hall. The bigger building is the Church hall where church is conducted. The first residence is the one where the 1st, 2nd and

3rd defendants reside. The other 2nd building nearest to the Church hall is the 2nd residence in which Ani resides. The access to the Church hall is via the vehicle access gate next to residence 1 and pedestrian access via residence 2.

37. The plaintiffs say that on 2 February 2025, they were advised that the 1st defendant had commenced church service at their residence. She had locked the gates to residence 1 and later on 9 February 2025, the pedestrian access gate to residence 2.

38. Ani is a church member and resides in residence 2 who now has to access her home via the neighbour's yard.

39. In order to avoid a confrontation, the 1st plaintiff says that he requested one of the Church members if they can just worship at their home temporarily whilst they try and resolve the matter. They now have five families worshipping at a residence in Lami which usage is not permitted by the Lands Department for religious purposes whilst 2 families are worshipping at the Church compound to the exclusion of the church.

40. On Wednesday, 5 February 2025, the Church leaders including Jone Takape Kanawale met with the 1st defendant to discuss concerns and requests on behalf of the Church. During this meeting, it was inquired on what authority the 1st defendant had acted; the reasons behind her actions; whether there was an official engineer's or Occupational Health and Safety report to confirm whether the Church hall was indeed condemned; whether in absence of such a report, the main gate and the hall gate could be opened to allow the congregation to gather for fellowship on Sunday; and whether the 1st defendant could propose a feasible solution to resolve the impasse. In response, she stated that she needed time to consider the matter. It was agreed that a second meeting would be held to continue discussions.

41. The plaintiffs say that until 8 February 2025, the gate remains locked, a sign has been posted stating: "*Church Closed – Under Repair*", and despite explicit request to cease work and open

the gate, construction materials continue to be transported into the premises, and repair works are ongoing,

42. On 8 February 2025, after discussions, the leadership group agreed to approach the 1st defendant again to request for the authority under which she locked the Church, and the engineer's report condemning the Church hall. She did not provide either document.
43. The situation now is that Church members who regularly attend Church are being locked out whilst the 1st and 2nd defendant are working against the interest of the Church, running everything as a family that owns the Church.
44. John Samisoni has now agreed to remain as a trustee. He has advised Waqarika Law and Registrar of Titles to put on hold the resignation of his removal as trustee. He wishes to assist in resolving the impasse amicably.
45. The plaintiffs say that the defendants have no authority to behave as trustees of the Church and are illegally taking possession of the property to the exclusion of Church members.
46. On the 18th of February 2025, John Samisoni and the plaintiffs' counsel Ms. L Vaurasi went to the Registrar of Titles office and discovered that the defendants had lodged a change of trustees and a new constitution with a new minute of meeting for registration. All this was done without the plaintiff's knowledge or consent.
47. John Samisoni counsel then informed the Registrar of Titles through a letter of 20 February 2025 that he had resigned as a trustee under false representation and that his resignation be put on hold.
48. That the 1st defendant is adamant that there are two Churches, one being Lami Gospel Assembly Churches and the other being Lami Gospel Community Church. There is only one Church.

49. The Church had opened a bank account with ANZ with the account name of Lami Gospel Assembly. The account number is 1238386. The 2nd plaintiff and the 2nd defendant are the only two signatories to this ANZ account.

Defendants Position

50. The first defendant has filed an affidavit in reply and reflected on the position of the defendants. She says that she and her late husband, Alfred Powell were the pioneers of this Church. They facilitated most of the donations required to start the Church and construct the chapel and the residence. The YFC building was constructed on the Church land based on a mutual agreement between her late husband, Alfred Powell and Mr. Korocowiri.

51. The verbal agreement stipulated that YFC would pay the yearly land rate to itaukei Land Trust Board at \$500.00, but Mr. Korocowiri failed to honor this agreement since 1999. This building is now, and has been the property of the Church.

52. The "40 Days of Purpose" outreach program in 2006, led by Rick Warren from Australia, introduced the temporary name "Lami Gospel Community Church" to create a welcoming environment. However this name was not officially registered or intended to permanently replace "Lami Gospel Assembly Churches". This is why the change of name was never registered. Her husband passed away in 2015 and if it was intended to have changed the name, that would have been done. However that was no done.

53. After the passing of her late husband in 2015, no changes were ever made to the trustees' record as there was not much formal structure in the Church. The Church has never had a Constitution or any document that sets out their leadership roles. They have always operated quite informally as their numbers have been very limited. The only document that everyone has abided by is "The Lami Gospel Assembly Churches Articles of Faith" that forms the basis of their doctrinal beliefs.

54. She has lived in the residential property of the Church with her late husband and children since 2000. Her two sons, the 2nd and 5th defendants were raised and continue to reside there to date. Now she also lives on that property with her current husband.
55. According to the 1st Defendant, Ani, is not a bona fide member of the Church. She is said to have not been baptized through immersion, which is the Church's standard practice. Instead, she was a member of the Methodist Church in Vatuwaqa. She only participated in a ladies' prayer team led by Mere Takape, which used the chapel for meetings. This same group had previously been removed from both Centenary Church in Suva and Qauia Methodist Church for deviating from doctrinal beliefs.
56. Due to the issues Ani had faced, she was allowed to stay in the Church's property and help with the cleaning and decorating of the chapel for every Sunday worship. The 1st defendant says that Ani resides in the bottom flat of residence 2 as a caretaker.
57. She also says that unfortunately the three elders who handed her an eviction letter – Jone Takape, Tevita Tamani Snr. and Peter Kwong Wah – did not contribute to the construction of the Church but were bold enough to attempt to remove her from the premises after her late husband's passing. She says that they wanted her to leave so that they could take over the complete running of the Church.
58. These same elders did not attend Church during COVID-19 because they were unvaccinated. She further says that the trustee, John Samisoni, was unfortunately, an inactive member and trustee of the Church. According to the 1st defendant, John Samisoni has not been actively involved in the church for a long time. Since COVID -19, he has been attending CMI Church because he refused to take the vaccine. As a result, he was unaware of the structural damage to the pine posts supporting the Church. He has been a trustee in name only, and has not contributed or executed the duties of the last remaining trustee.

59. The 1st defendant admits that she moved back into the main residence in September 2024 as she is a life member and pioneer of the Church where she has lived with her family since 2000. She intends to continue to live there for life. She says that she would expect that the same love is showed to her children to honor the memory of her family as pioneers.
60. The 4th defendant and his wife, Akanisi, joined fellowship with the Church in April 2024 and continue to date as members who regularly clean the Church compound. The 4th defendant was called in to be ordained by the 1st and 2nd plaintiffs and her son the 2nd defendant.
61. Some of the individuals named by the plaintiffs as regular attendees are either not active members or belong to other denominations. Asinate misses church 1-2 Sundays per month. Suluweti (Sunday school teacher) attends every Sunday. Miliana Ratu joined a Pentecostal Church in August 2024. Ro Mataitini's family are not regular attendees. Anjina Devi attends only 3-4 times a year.
62. The 1st defendant says that she has never proposed her husband as the Pastor of the Church. The allegation that she wanted him appointed Pastor is false. She says she stopped the AWANA program due to concerns regarding misuse of the Church building. The Church was not being treated as a place of worship but rather as a hall for sports and other activities. Children were even climbing on the Church roof, which contributed to structural damage and vibration issues, worsening the building's condition.
63. In regards the appointment of the trustees vide the Annual General Meeting, the 1st defendant says that was no proper election conducted at the AGM because there is no Constitution or document to state how the same is to be conducted. The governance of the Church ought to be a democratic one where the Church members should elect their office bearers. In this case, this did not happen, which is why the 2nd and 4th defendants withdraw their names as trustees.

64. It is denied by the 1st defendant that David Gibson is an engineer but that his son Darrell Gibson, works as an engineer at Auckland City Council. She says that when they visited the Church on a Monday morning, no one was present to receive them. They never entered the Church building but instead visited her house to greet her before leaving.
65. From her understanding, the plaintiffs had attempted to register a new religious body under the name of Lami Gospel Community Church. The 1st defendant says that this was advised to her by Waqanika Law, whose clerk, when at the Registrar of Titles Office, saw in the lodgment book the name of Lami Gospel Community Church.
66. When she found out that the plaintiffs were attempting to register a new Church, it was decided that an action be taken because all of the Church's property is under the registered name of Lami Gospel Assembly Churches.
67. The 1st defendant says that she became aware that John Samisoni was invited to a private lunch organized by Mere Takape (wife of the 1st Plaintiff, Jone Takape), where discussions were held regarding appointing Jone Takape and Tevita Tamani Jnr as new trustees. These discussions took place without her knowledge or consent or that of other members.
68. The Church has been neglected for a long time. This was evident as no repairs were made to the chapel and other buildings despite continued discussions by the plaintiffs.
69. Due to this and the deteriorating state of the chapel, the defendants have decided to take ownership and make things right. They did this first by meeting with John Samisoni and explaining to him the state of the chapel building which had rotten pine posts that posed a significant danger to all persons. After that explanation, John Samisoni agreed to resign. He then signed the resignation letter before Mr. Samuel Savu, a lawyer employed at Waqanika Law.

70. Waqanika Law then proceeded to have the documents for amendment to the details of the Church lodged at the Registrar of Titles Office on 29 January 2025.
71. There was no record of the Church's Constitution with the Registrar of Titles and therefore they had prepared a new one which was lodged with the defendants' application.
72. The 1st defendant accepts that she has sent a message to the plaintiffs as stated. She had sent that message after their application was lodged at the office of the Registrar of Titles. The suggestion to split the monies in the bank account was due to the fact that those monies were collected as tithe from the members. Now that the plaintiffs are attempting to register a new Church, it would be fair if they took half of the monies in the account.
73. The plaintiffs and the "community" group neglected their responsibility to repair the Church despite constantly discussing it. She was forced to engage and hire carpenters and use her personal retirement funds (as her tithe) to fund the necessary structural repairs.
74. The 1st defendant says that the pedestrian gate access and the driveway leading to the chapel and residence 2 were locked because they did not want the building materials stolen and to stop persons from interfering with the construction work given that it is now a work site. The chapel is currently under repair and therefore worship services cannot take place there.
75. There was never any intention to stop Ani from accessing the flat she is residing in. In fact, the main driveway to the property had been and remains open. The plaintiffs are well aware of this as they have been using it to visit Ani, even after the filing of this action.
76. A key to the lock for the pedestrian access was provided to Ani on Friday 7 March 2025. The defendants' have asked her to monitor those coming onto the property and to lock the gate after she enters. She has undertaken to do this.
77. It is also wrong for the plaintiffs to claim that they are stopping them from worshipping at the property. The 1st defendant says that she had invited the 2nd plaintiff to join them in

worship at the main residence as the building materials are inside the chapel which is being repaired. He did not agree.

78. The defendants have also obtained an engineer's report confirming that the chapel has major defects. A copy of the report was attached to the 1st defendant's affidavit.

79. The 1st plaintiff and his wife Mere have been visiting Ani this past week since they have filed this action so it is wrong for him to continue to claim that the defendants have stopped them from accessing the property.

80. At the moment, their major concern is the building materials and the safety of everyone while the chapel is being repaired.

81. The 1st defendant says that she will not accept the plaintiffs' registering a new Church and attempting to pass that off as if it is Lami Gospel Assembly Churches.

82. In respect of the plaintiff's claim for injunction orders, the defendants say that:

- 1. They have no power to register themselves. John Samisoni of his own volition resigned as trustee and his resignation has been lodged. Their lawyers submitted that application for registration on 29 January 2025 and therefore they have no control over that process.*
- 2. An order stopping them from dealing with the Native Lease is prejudicial to the 1st defendant and her family as they are currently living on the property and maintaining the same. The plaintiffs are well aware of that. They are also well aware that the chapel building and pine posts were severely rotten yet they did not do anything about it. Now that the defendants have employed and paid monies for its repair, they are attempting to stop that.*
- 3. The plaintiffs have unfortunately misled the court in regards the defendants restricting the members and Ani from accessing the Church property. They have never stopped Ani or them from accessing the YCF building where Ani lives. The plaintiffs have accessed the property and Ani's flat even after this action was filed. Restriction for access to the chapel must remain as it is a construction site now.*

4. *On the issue of the plaintiffs request for an order to restrain the defendants from accessing the ANZ bank account, the defendants say that the account requires two signatories to operate. These signatories are both the 2nd plaintiff and the 2nd defendant. Neither party could access it without the consent of the other, so, this request is flawed.*
5. *It seems the plaintiffs want the defendants to stop worshipping in their house when they had invited them all to join us. This is quite a sad request. The plaintiffs are asking that the defendants do not do anything that is not in line with Church principles but have not referenced or provided any such documentation to show what these principles are.*

Law and Analysis

83. Who are the proper trustees of the Church? That is the main issue to be determined. There is no dispute that the only remaining registered trustee of the Church is Mr. John Samisoni. However, he has expressed his intention not to continue in that position. That his clear from his Facebook message to the plaintiffs and the letter of resignation. Even if he wrote the letter of resignation on misrepresentation from the defendants, his intention to resign cannot be diminished. His message to the plaintiffs to resign as the trustee has not been challenged by him.
84. As far as ss. 3 and 4 of the Religious Bodies Registration Act 1881 is concerned, he is still the registered trustee.
85. The common issue for both the parties is whether the resignation of John Samisoni should be accepted to allow the new persons to be registered as the trustees, and who should be these new persons. The reason I say that this is a common issue is because both the parties want to be registered as the new trustees and the name of John Samisoni does not appear in either list. When the new trustees' names will be registered, John Samisoni will cease to be a trustee.
86. I find that John Samisoni has properly resigned as the trustee. He has expressed his intentions very clearly to the plaintiffs. He has asserted misrepresentation on the part of the defendants but nothing has been said about his message to the plaintiffs. It is said that he wants to remain as the trustee. He cannot approbate and reprobate as and when he wishes to. I find his

intention clear. That intention was to resign. He should be replaced by the new trustees. Who are the new trustees of the Church? I need to determine that.

87. Before I attend to that pertinent question, I need to determine how the new trustees are to be appointed. The Religious Bodies Registration Act makes no mention of how the new trustees are to be appointed. Usually, these matters are prescribed in the Constitution.
88. I accept that the Church does not have a Constitution. The plaintiffs say that they could not locate one from the Registrar of Titles Office. The defendants say that the Church does not have one as there was not much formal structure in the Church when it started.
89. In absence of a Constitution, the Church has been up and running for so many years. It will be improper for the Court to rely on an inexistent Constitution to require the trustees to be appointed under the Constitution. Any such requirement will only affect the running of the Church and the people's right to worship when they have been doing that for so many years without a Constitution.
90. The prudent way to determine how the trustees should be properly appointed is to fall back on the commonly accepted way in which appointments of executive members of religious bodies are done. Usually, the executive members and trustees are appointed in the Annual General Meeting.
91. There was an Annual General Meeting held on 1 December 2024. That meeting appointed the trustees. The 2nd and 4th defendants who were also part of the meeting were also appointed trustees.
92. I find no basis for the defendants to assert that the Annual General Meeting was improper and held in contradiction to any set policy or procedure. The Church had to hold an Annual General meeting and appoint its trustees as the affairs of the Church needed to be looked into.

If that was not done, I would have ordered that an Annual General Meeting be held and the trustees be appointed by majority votes of the members.

93. The defendants say that the appointment of the trustees via the Annual General Meeting was not democratic. What more democratic process than to hold a meeting and ask the members to indicate their views, are the defendants looking for?
94. When the appointed trustees had started the registration process, the 1st defendant with her husband and sons decided to "take over" the Church (*the 1st defendant uses the word "take ownership" of the Church to make things right*). The 1st defendant's justifies this on the basis that the Church had been neglected for a long time as evident by lack of repairs and that the plaintiffs were attempting to register a new Church under the name of Lami Gospel Community Church.
95. It is preposterous that the 1st defendant and her family members think they can take over the Church property. It does not belong to the 1st defendant and her family for them to take ownership and exercise their rights as they wish. No matter how aggrieved they are or not happy with how the Church is functioning, they cannot exercise personal authority over the Church.
96. The 1st defendant thinks that she has as overriding right and power over the Church because her former husband was the first trustee and, they, as a family, have done a lot to see the Church grow. She says that her former husband was a pioneer and she cannot see the Church building in that state. Her family's charity work towards the Church does not give the defendants a right to take ownership of the Church. She does not have a right to presume any right over the Church. That right is vested in the trustees.
97. Everyone has worked for the benefit and building of this Church. Some may have put extra effort and others may have done their level best or just the minimum. Irrespective of their

levels of contribution, no one can claim ownership of the Church. Their efforts can only be recognized as their service to the Church. It does not give them ownership of the Church.

98. The 1st defendants say that the trustees should be properly appointed by the members of the Church. I find that they were so done through the Church's Annual General Meeting. Having said that, the defendants have not been able to show to me that they were properly appointed democratically as they suggest. There was no meeting that has appointed them except for the 2nd and 4th defendants who have been appointed with the 1st and 2nd plaintiff's in the 1 December 2024 Annual General Meeting.
99. The defendants have submitted to the Registrar of Titles office minutes of some meeting. I do not have any access to that to make observations on the validity of that meeting.
100. The actions of the defendants show that they wish to treat this Church as a family affair and all this is instigated by the 1st defendant who only moved back in the Church property recently. Ms. Vaurasi submitted that the actions of the 1st defendant are not proper and she is conniving. Mr. Fataiki took strong objections to that submission that the 1st defendant is conniving and wanted me to rule that she is not. Conniving may be a strong word, but the 1st defendant's actions are improper.
101. The defendants also say that the plaintiffs are attempting to register a new Church by the name of Lami Gospel Community Church. I find this to be a very improper accusation. She also admits in her affidavit that for the purposes of making the Church a community one, the elders had decided to call Lami Gospel Assembly Churches by the name of Lami Gospel Community Church but it was not intended that the name be changed because if it was intended, the name would be changed.
102. This Church has been using the name Lami Gospel Community Church for a long time. If

the trustees want that name to be registered, I see no reason why that name cannot be registered and formalized. What the plaintiffs are doing is only to formalize the name and register it.

103. The next issue is who has the right to manage the affairs of the Church. This is an essential issue to be decided because the 1st defendant and others have taken over the construction works at the Church and there are issues surrounding access to the Church premises, worshipping at the Church and whether it will open for worship until construction is underway.
104. Under the Religious Bodies Registration Act 1881, the trustees are the proper persons to manage the affairs of the Church and to conduct any dealings in the land. Section 5, 6, and 7 are pertinent sections in regards dealing with the Church land.
105. I do not find reason why the defendants except the 2nd and 4th, because they too are the trustees, should be responsible and be concerned about the repairs. That is the duty of the new trustees and they should undertake that task. The 1st defendant's family cannot conduct any dealings in the land.
106. There is admission by the 1st defendant that the worship is being undertaken at her residence. She should not make that decision without the permission of the trustees. She cannot decide, with her family members as to who will access the Church property and where the worship will take place. Her actions effectively amounts to her having taken total control of the Church with her family. Her actions are improper and not in the interest of the members wishing to exercise their right to worship.
107. If the 1st defendant and her family members are not restrained, they will continue to interfere in the affairs of the Church, as can be seen from their actions, which they admit, on the understanding that they are proper persons to manage the affairs of the Church. To that end, the orders sought by the plaintiffs are justified.

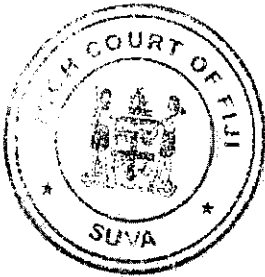
108. The defendants say that they have not stopped Ani from accessing her property but have asked her to keep an eye on who accesses the same. They do not want an order against themselves as they have not done anything wrong. I find that if an order is not given, it will affect Ani, as the 1st defendant and her family members are on the property as residents. There is a highly likely chance of interference and they have admittedly given instructions to Ani to report to them as to who accesses the property. The defendants have indisputably denied worship at the Church on the basis that construction works are underway. An order restraining them is justified.
109. It is also said by the 1st defendant that since her family is occupying the residence, an order prohibiting them from dealing with the land will affect their residential rights. I do not find that an order prohibiting them from dealing with the land equates to prohibiting them from continually living on the property. Whether they can continue to live there is for the trustees to decide and is not an issue for this proceedings.
110. Before I outline the proper orders, I wish to reflect that some plaintiffs are deceased and I see no basis on which they could be made the plaintiffs. The trustee's right in this situation does not devolve to the personal representatives. The deceased plaintiffs Alfred Powell and Ilaitia Koroï should not remain as plaintiffs.

Orders

111. The 1st to 5th defendants are restrained from:
1. *registering themselves as trustees for either the Lami Gospel Assembly Churches or the Lami Gospel Community Church with the Registrar of Titles and holding themselves out and/ or representing themselves as trustees;*
 2. *dealing with Native Lease Number 10814, Lot 1 Section 14, Lami Subdivision, Suva consisting of 2 acres and 16 perches ("Native Lease");*

3. *attending to any construction or renovation works to any of the buildings on the Native Lease;*
 4. *restricting the plaintiffs and other Church members from accessing the buildings on the Native Lease;*
 5. *restricting Ani and her family members from accessing residence number 2 also known as the Youth of Christ building on the Native Lease;*
 6. *accessing and/or withdrawing any funds from the Churches ANZ Account Number 1238386; and*
 7. *conducting on the Church premises any church services, ceremonies, and activities that are not in line with the Church's principles and policies.*
112. The 1st and 2nd plaintiffs are permitted to attend to the registration of the new trustees as agreed to in the AGM of 1 December 2024. If the 2nd and 4th defendants do not wish to be included as trustees of the Church, they are to advise the 1st and 2nd plaintiffs of the same within 7 days of this ruling. Upon receipt of any such information, the 1st and 2nd plaintiff are at liberty to register the remaining trustees in accordance with the Religious Bodies Registration Act 1881.
113. The new registered trustees shall be responsible to manage the affairs of the Church including the renovation and repair works at the Church. No party is to interfere with the trustee's rights and responsibilities.
114. The plaintiffs Alfred Powell and Ilaitia Koroi are removed from the proceedings as they are deceased.
115. There shall be costs against the 1st to 5th defendant's in the sum of \$1,500 to be paid to the Church within 14 days.
116. The parties are to comply with the rules on pleadings for the substantive action, if it is

desired to be proceeded with. The matter should be listed before the Master when the Summons for Directions is filed.



Hon. Madam Justice Anjala Wati

Judge

27.03.2025

To:

1. *Shekinah Law for the Plaintiffs.*
2. *Fatiaki Law for the Defendants.*
3. *File: Suva HBC 81 of 2025.*