

**IN THE HIGH COURT OF FIJI
AT SUVA
PROBATE JURISDICTION**

Probate Action No. HPP 97 of 2022

IN THE ESTATE of SOHAN LAL
Late of Namosau, Ba, Businessman,
Deceased, Testate

BETWEEN: **PRAVIN LAL** also known as **PRAVEEN LAL** of 18A Bledisloe Street,
Papatoetoe, New Zealand, Salesman.

PLAINTIFF

AND: **SUREND SAHAY** also known as **SURENDRA CHAND SAHAY** of Tavua
Town, Tavua, Fiji, Cultivator and Retired Clerk.

DEFENDANT

Representation:

Plaintiff: Mr. D. Sharma & Mr. S. Walli (R Patel Lawyers).

Defendant: Ms. T. Tuitoga (Howell & Associates).

Date of Trial: 29th April 2024 and 9th May 2025.

Judgment

- [1] The Plaintiff has sought orders seeking that the Defendant immediately transfer Crown Lease No. 11930, Lot 1, situated in Namosau, Ba (hereafter "the property") to the beneficiaries of the Estate of Sohan Lal. He is also seeking that the property be transferred with vacant possession and without any encumbrances.
- [2] The Plaintiff had sought damages from the Defendant for breach of trust and for failing to provide the full and proper accounts of the said estate. Damages were also sought for attempting to sell the property, failing to discharge responsibilities as Executor and Trustee, failing to maintain property, failing to insure the property, failing to repair the property, and failure to pay rates and taxes. The Defendant filed an affidavit in opposition. An affidavit in reply of the Plaintiff was filed.
- [4] On 29th April 2024 the matter was called for trial. The Plaintiff and Defendant gave evidence. The Defendant following his evidence stated that he had no interest in the property. He wanted to transfer the property. Parties and lawyers sought 3 months adjournment to settle the matter. On 3rd October 2024 the Defendants sought that the trial continue. Continuation of the trial was set for 22nd November 2024. On that day the Defendant was sick. The matter was set for trial for 9th May 2025. The Defendants did not appear. This sequence of events explains the delay from the initial date of trial of over a year.
- [5] I have noted all the evidence and the documents.

- [6] Sohan Lal, the father of the Plaintiff died on 30th May 1995, leaving a will. He appointed the Defendant and Dhani Ram as Executors and Trustees. The property in the will of Sohan Lal was bequeath to the Plaintiff and his brother, Mohan Lal (aka Mahendra Lal). Dhani Ram passed away on or about 8th December 2010. The Defendant remained the sole surviving executor and trustee of the estate. Mohan Lal (aka Mahendra Lal) passed away on 11th May 2014. Transmission by death on the property was registered on 14th October 2016.
- [7] The Plaintiff in his evidence stated that he is not seeking damages. He sought the property. He wants to keep the property. The Plaintiff is a beneficiary of the estate of his late father. He is entitled to the share in the estate as per the will of his late father. This is unchallenged. The evidence of the Defendant was that he wants to transfer the property. He does not want it for himself. It is clear to me that the property needs to be transferred to the beneficiaries immediately by the Executor.
- [8] Based on the evidence of the parties I order the Defendant to immediately transfer the property comprised and described in Crown Lease No. 11930, Lot 1 situated in Namosau subdivision, Ba (Plan No. SO 2817) comprising an area of 1517 m² free from any encumbrances and with vacant possession to the beneficiaries of the Estate of Sohan Lal (as per his last will and testament).
- [9] The Plaintiff is not seeking damages. No damages are awarded. The parties will bear their own costs. The Plaintiff is at liberty to seek full and proper accounts of the Estate of Sohan Lal from the Defendant. If and when the full and proper accounts of the Estate of Sohan Lal are sought by the Plaintiff from the Defendant, the Defendant is to provide the accounts within 45 days, from the date of such request.
- [10] I order:
- (a) That the Defendant immediately transfer the property comprised and described in **Crown Lease No. 11930**, Lot 1 situated in Namosau subdivision, Ba (Plan No. SO 2817) comprising an area of 1517 m² free from any encumbrances and with vacant possession to the beneficiaries of the Estate of Sohan Lal (as per his last will and testament).
 - (b) The Plaintiff is at liberty to seek full and proper accounts of the Estate of Sohan Lal from the Defendant. If and when the full and proper accounts of the Estate of Sohan Lal are sought by the Plaintiff from the Defendant, the Defendant is to provide the full and proper accounts within 45 days, from the date of such request.
 - (c) The parties are to bear their own costs.

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Chaitanya S. C. A Lakshman
Puisne Judge

16th May 2025

