

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

**CIVIL ACTION NO. HBC 61 OF 2015**

**BETWEEN** : **SANGEETA RESHMI** as sole Executrix and Trustee of the Estate of Jag Lal also known as Jaglal, late of Legalega, Nadi

**1<sup>st</sup> PLAINTIFF**

**AND** : **SANGEETA RESHMI** of Legalega, Nadi. Domestic Duty.

**2<sup>nd</sup> PLAINTIFF**

**AND** : **HOUSING AUTHORITY OF FIJI**, a body corporate duly constituted under the provision of the Housing Act and having its Head Office at Valelevu.

**1<sup>st</sup> DEFENDANT**

**AND** : **VIMLESH KUMAR SHARMA** of Fiji Island Revenue & Customs Authority, Lautoka.

**2<sup>nd</sup> DEFENDANT**

**AND** : **REGISTRAR OF TITLES** of Suva

**3<sup>rd</sup> DEFENDANT (NOMINAL)**

**AND** : **ITAUKEI LAND TRUST BOARD** a body corporate of Victoria Parade, Suva incorporated pursuant to the Native Land Trust Act 134, Laws of Fiji.

**4<sup>th</sup> DEFENDANT (NOMINAL)**

**BEFORE** : A.M. Mohamed Mackie J.

**APPEARANCES** : Mr. E. Maopa, for the Plaintiff.

: Ms. Ravai, for the 1st Defendant

: 2<sup>nd</sup> Defendant appears in Person

: Ms. Raman J. for the nominal 3rd Defendant

: Mr. Lakanivalu for the nominal 4th Defendant.

**DATE OF HEARING:** 12<sup>th</sup> March 2025

**W. SUBMISSIONS** : By the Plaintiff- filed on 7<sup>th</sup> March 2025.

- : By the 1<sup>st</sup> Defendant – filed on 10<sup>th</sup> March 2025.
- : 2<sup>nd</sup> Defendant made short oral submissions.
- : No submission filed by the 3<sup>rd</sup> & 4<sup>th</sup> Defendants (Nominal).

**RULING** : Delivered on 15<sup>th</sup> May 2025.

## **RULING**

### **A. INTRODUCTION:**

1. This Ruling pertains to the purported “SUMMONS FOR STAY OF EXECUTION” filed by the Plaintiffs on 14<sup>th</sup> May 2024 seeking the following Orders;
  1. *That the execution of the judgment delivered by the trial judge Hon. Mr. Justice Mohamed Mackie on 3<sup>rd</sup> April 2024 and the Orders sealed herein is stayed forthwith pending the determination of the Appeal.*
  2. *Alternatively, an Order for stay on any other immediate act or proceeding may be taken against the Plaintiff by the defendants pending the determination of the Appeal.*
  3. *That costs be in the cause.*
2. The said Summons is supported by the Affidavit sworn by Ms. Sangeeta Reshmi, the 2<sup>nd</sup> Plaintiff, and filed along with annexures marked as “SR-1” & “SR-2”, which are copy of my judgment dated 3<sup>rd</sup> April 2024 and the Notice of Appeal together with the intended Grounds of Appeal respectively.
3. The 1<sup>st</sup> and the 2<sup>nd</sup> Defendants have filed their respective Affidavits in opposition and the Plaintiff has filed her Affidavit in reply only in relation to the Affidavit in opposition filed by the 2<sup>nd</sup> Defendant Vimlesh Kumar Sharma.
4. When the matter came up for hearing on 12<sup>th</sup> March 2025, counsel for the Plaintiffs and the 1<sup>st</sup> Defendant agreed to have the matter disposed by way of written submissions which they had already filed. The 2<sup>nd</sup> Defendant, who appeared in person from the inception, also agreed for same, but he only made a short oral submission at the hearing. Nominal Defendants neither made submissions nor actively took part at the hearing.

### **B. BACKGROUND:**

5. The 2<sup>nd</sup> named Plaintiff, as the sole executrix and trustee of the Estate of her deceased Father, Jag Lal, and in her personal capacity filed this action on 7<sup>th</sup> April 2015 by way

of her writ of summons and the Statement of Claim (SOC) seeking the reliefs prayed for therein by naming the Housing Authority of Fiji (HA) as the 1<sup>st</sup> Defendant, the Registrar of Title as the 2<sup>nd</sup> nominal Defendant and one Vimlesh Kumar Sharma, as the 3<sup>rd</sup> nominal Defendant.

6. The 1<sup>st</sup> Defendant by its Statement of Defence (SOD) filed on 8<sup>th</sup> May 2015 moved for the dismissal of the Plaintiff's action. The Plaintiff, subsequently, filed her second Amended Statement of Claim (ASOC) on 17<sup>th</sup> August 2018 by re-naming the said Vimlesh Kumar Sharma as the 2<sup>nd</sup> Defendant, Registrar of Title as the 3<sup>rd</sup> (nominal) Defendant and adding the Itaukei Land Trust Board as the 4<sup>th</sup> (nominal) Defendant.
7. As per the said 2<sup>nd</sup> Amended Statement of claim (ASOC) the Plaintiffs prayed for:
  - (a) *Special damages in the sum of \$560.00.*
  - (b) *General damages for mis-statement; discrimination, fraud and Violation of the Provisions of the Constitution of the Republic of Fiji against the 1st and 2nd Defendant.*
  - (c) *A declaration that the plaintiff has equitable interest in Itaukei Lease No.30916 Lot 8 SO 3526, Matavolivoli No. 2, Nadi.*
  - (d) *A Declaration that the Plaintiff is entitled to own the portion of the property occupied by her in the Itaukei Lease No 309161 Lot 8 SO 3526, Matavolivoli No. 2, Nadi.*
  - (e) *Injunction against the 2<sup>nd</sup> defendant and the nominal 4<sup>th</sup> Defendant restraining from evicting the plaintiff from the property being Itaukei Lease No 309161 Lot 8 SO 3526, Matavolivoli No. 2, Nadi.*
  - (f) *An order that the Itaukei Lease No 309161 Lot 8 SO 3526, Matavolivoli No. 2, Nadi given to the second Defendant is null & void.*
  - (g) *An order that the 4th Nominal Defendant to provide for the necessary lease document to the plaintiff.*
  - (h) *Interest.*
  - (i) *Cost.*
  - (j) *Further or any other order the Court deems just.*
8. The injunctive relief sought as per paragraph (e) above was refused by Mohamed Ajmeer -J (as he was then). The 1<sup>st</sup> Defendant initially opted not to file amended statement of Defence, while the 2<sup>nd</sup> Defendant, Vimlesh Kumar Sharma, filed his Statement of Defence on 15<sup>th</sup> October 2018 moving for the dismissal of the Plaintiffs' action. However, the 1<sup>st</sup> Defendant subsequently filed its amended statement of defence on 19<sup>th</sup> March 2019 moving for the dismissal of the Plaintiff's action. The 3<sup>rd</sup> & 4<sup>th</sup> Nominal Defendants neither filed their Statement of Defence nor took part at the trial.

9. At the end of the trial, this Court on 3<sup>rd</sup> April 2024 delivered its final judgment granting the following orders: (Vide my judgment dated 3<sup>rd</sup> April 2024).

***a. The Plaintiffs' action fails.***

***b. The Plaintiff's writ of Summons filed on 7th April 2015 and the Amended Statement of Claim filed on 17th August 2018 are struck out.***

***c. The Plaintiffs' action against all the Defendants is hereby dismissed.***

***d. No costs ordered and the parties shall bear their own costs.***

10. The Plaintiff, having preferred an Appeal to the Court of Appeal against the said judgment, is now before this Court by way of her '**purported**' "Summons seeking the stay of execution of my judgment dated 3<sup>rd</sup> April 2024.

### **C. CONSIDERATION:**

11. The reason why I call this Summons for Stay as 'purported' is the absence of any executable Order in my Judgment dated 3<sup>rd</sup> April 2024 granted in favor of the 1<sup>st</sup> and /or the 2<sup>nd</sup> Defendants.
12. As per the final judgment dated 3<sup>rd</sup> April 2024, this Court has found that the 1<sup>st</sup> Defendant Housing Authority of Fiji had well and truly conveyed the title to the land in dispute to the 2<sup>nd</sup> Defendant Vimlesh Kumar Sharma by following the due processes , and the 2<sup>nd</sup> Defendant V.K. Sharma had duly become the registered proprietor /owner thereof.
13. The only relief sought by the 1<sup>st</sup> Defendant Housing Authority (HA) in its amended statement of Defence was the dismissal of the Plaintiff's action, which has been granted. When the HA had duly conveyed the title to the 2<sup>nd</sup> Defendant, it could not have moved for any relief other than the dismissal of the Plaintiff's action, which the HA correctly did. Thus, the HA has not obtained any executable relief (order/ judgment) in its favor for it to make an application for the execution.
14. Unfortunately, the 2<sup>nd</sup> Defendant, Vimlesh Kumar Sharma, who appeared in person from the inception, also did not pray for any relief other than the dismissal of the Plaintiff's action. Thus, the Court did not grant any executable relief (Order/ Judgment) in his favour, except for the dismissal of the Plaintiff's action. This was highlighted in my said judgment dated 3<sup>rd</sup> April 2024. Thus, he also cannot make any application for the execution as there are no executable reliefs granted in his favour.
15. This is why the 2<sup>nd</sup> Defendant is said to have filed a new action before the Master under Order 113 of the HCR for the eviction of the Plaintiff and others occupying the subject land. This was brought to the notice of this Court by the Counsel for the Plaintiff Mr. Maopa, on the date of hearing. In view of the above, when there is no likelihood of any

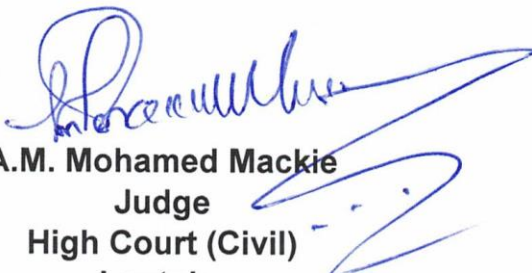
application for execution being filed by the 1<sup>st</sup> or 2<sup>nd</sup> Defendants in terms of my judgment dated 3<sup>rd</sup> April 2024, the Plaintiff's Application for stay becomes redundant.

**D. FINAL ORDERS:**

- a. Plaintiffs "Summons for Stay of Execution" fails.
- b. Plaintiff's said Summons filed on 14<sup>th</sup> May 2024 is hereby dismissed.
- c. No costs ordered and the parties shall bear their own costs.

**On this 15<sup>th</sup> Day of May 2025 at the Civil High Court of Lautoka.**



  
**A.M. Mohamed Mackie**  
 Judge  
 High Court (Civil)  
 Lautoka

**SOLICITORS:**

For the Plaintiff: Babu Singh & Associates- Barristers & Solicitors

For the 1<sup>st</sup> Defendant: Messrs. Vijay Naidu & Associates- Barristers & Solicitors.

For the 2<sup>nd</sup> Defendant: No representation (Self represented)

For the 3<sup>rd</sup> (Nominal) Defendant: Office of the Attorney General

For the 4<sup>th</sup> (Nominal) Defendant: In House Legal Department, I-Taukei Land Trust Board.