

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

CIVIL ACTION NO. HBC 13 of 2024

**BETWEEN** : **RAVINESH KUMAR** of Meigunyah, Nadi, **HELEN IMANSHU KUMAR**,  
**NAVNEET PRASAD**, **MANOJ KUMAR** of Savanawai, Votualevu, Nadi,  
**ALVISHNEEL VANSI SINGH** of Nacovi Nadi, **JAVISHNEEL VANSI SINGH**  
**SINGH** of Nacovi, **SHELVIN CHAND** of Votualevu, Nadi, **PRITESHWAR**  
**NAND** of Legalega, Nadi, **ABHINESH REDDY** of Sabeto, Nadi, **PRANIL**  
**KUMAR** of Meigunyah, Nadi, **RAKESH MANI** of Nawaka, Nadi,  
**RONESH PAL** of Malolo, Nadi, **MUNIAMMA NAIDU** of Malolo, Nadi,  
**SONIKA JASMINE REKHA** of Lavusa, Nadi, **SONAM SIMA REKHA** of  
Sigatoka, **VIKASHANI SWARAN LATA** of Lautoka, **ASHNIL PRAVEEN**  
**CHAND** of Ba, **PRAVNIL PRAVINESH KUMAR** of Togo, Lavusa, Nadi,  
**SAGAAR SACHIN KUMAR** of Malakua, Nadi, **JOTISHMA JOTIKA**  
**KUMAR** of Qeleloa, Nadi, **JYOTI LATA** of Nacovi, Nadi, **MOHAMMED**  
**AIZAAZ AHMED BEGG** of Nadi and **KINISIMERE LANANI** of Ba.

**APPLICANTS**

**AND** : **LAND TRANSPORT AUTHORITY**

**RESPONDENT**

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

**COUNSEL** : Ms. M. Tumalevu, O/I of Messrs. Iqbal Khan & Associates, for the  
Applicants.  
Mr. A. Kumar, for the Respondent

**HEARING** : By way of Written Submissions as agreed on 4<sup>th</sup> Nov, 2024.

**W. SUBMISSIONS** : Filed by the Respondent on 25<sup>th</sup> November 2024.  
Not filed by the Applicants.

**RULING DELIVERED** : On 17<sup>th</sup> July 2025.

## **RULING**

### **A. THE ORIGINATING SUMMONS:**

1. The Applicants commenced this action by way of their **Originating Summons** filed on **26<sup>th</sup> January 2024** against the Respondent (LTA) seeking the following **DECLARATION** and **ORDERS:**

- a. **DECLARATION THAT** the seizure of Taxi Permits listed in the Affidavit filed herein is unlawful, null and void.
  - b. **FOR AN ORDER THAT** the applicant be at liberty to use their Motor Vehicles listed in the Affidavit filed herein together with the respective Taxi permits until further Orders of the Court;
  - c. **FOR AN ORDER THAT** the Respondent shall maintain the current status quo of the Applicants Motor Vehicles bearing the registration numbers listed in the affidavit filed herein with the respective Permits until further orders of the Court;
  - d. **FOR AN ORDER THAT** the Respondent attend to facilitation of fitness test of Applicants Motor Vehicles bearing registration numbers listed in the affidavit filed herein with the respective Taxi Permits as and when the same becomes due;
  - e. **FOR AN ORDER** that the Respondent and/or its employees and servants forthwith releases all the Taxi Permits/Vehicles impounded by them.
  - f. **FOR AN ORDER** that the Respondents/its servant, employees or agents be restrained from seizing and/or stopping all the applicants from driving their Taxi Permits/Vehicle pending determination of this action herein.
  - g. **THAT** all costs incurred by the Applicants in this action be borne by the Respondent.
  - h. Such further and/or other relief as this Honorable Court deems just and expedient
2. The Originating Summons is supported by an Affidavit sworn by **RAVINESH KUMAR**, the 1<sup>st</sup> named Applicant on his behalf and purporting to be on behalf of the other Applicants as well, and filed along with annexures marked as "MK-1" & "MK-2".
  3. The Originating Summons did not state as to under what section or provision of the Law the reliefs are sought against the Respondent.

**B. INTER- PARTE NOTICE OF MOTION:**

4. Simultaneously, the Applicants also filed an **Ex-Parte Notice of Motion** (which was made inter-parte by the Court) seeking the identical reliefs stated above, of which the reliefs (b), (c) & (f) are in the nature of injunctive/ restraining orders. For the sake of lucidity, I will reproduce those prayers for injunctive reliefs as follows.
  - b. **FOR AN ORDER THAT** the applicant be at liberty to use their Motor Vehicles listed in the Affidavit filed herein together with the respective Taxi permits **until further Orders of the Court;**
  - c. **FOR AN ORDER THAT** the Respondent shall maintain the current status quo of the Applicants Motor Vehicles bearing the registration numbers listed in the affidavit filed herein with the respective Permits **until further orders of the Court;**

f. **FOR AN ORDER** that the Respondents/its servant, employees or agents ***be restrained*** from seizing and/or stopping all the applicants from driving their Taxi Permits/Vehicle ***pending determination of this action herein.***

5. This Notice of Motion is also supported by the same Affidavit sworn by the 1<sup>st</sup> named Applicant and filed along with the Originating summons. The Notice of Motion states that it is filed pursuant to Order 29 Rule 1 and rule 16 of the High court rules 1988; Division 4 of the Land Transport Act 1998; Part 2 of the Land Transport (public Service Vehicles) Regulations 2000; and inherent jurisdiction of this Court.
6. When the Application for said injunctive Orders was supported inter-partes on 6<sup>th</sup> February 2024, as the Counsel for the Respondent vehemently objected, directions were given for Affidavit in opposition to be filed and served in 28 days and reply to be filed in 14 days thereafter respectively.
7. Accordingly, the Respondent's Affidavit in opposition sworn by its Branch Manager, **Paulini Matadradra**, was filed on 5<sup>th</sup> March 2024 together with annexures marked as "PM-1" to "PM-6". Though, the Applicants were left at liberty of filing the Affidavit in Reply, neither such Affidavit was filed by the Applicants nor any move was made to file such an affidavit although a prompt and fitting reply was warranted in relation to the averments in the Respondent's Affidavit in response.
8. The hearing into this Notice of Motion being agreed to be disposed of by way of written submissions, only the Respondent LTA filed its written submissions on 25<sup>th</sup> November 2024 and no written submissions were filed by the Applicants. Accordingly, this ruling is pronounced based on the contents of the record and the law that govern the subject.

**C. LAW & CONSIDERATION:**

9. Injunction is an equitable remedy granted at the discretion of the court. The power which the court possesses to grant injunctions should be cautiously exercised only on clear and satisfactory grounds. An application for injunction is an appeal to an extraordinary power of the court and the Applicant is bound to make out a case showing clearly a necessity of its exercise.
10. It is also important to bear in mind that injunctive relief being a discretionary remedy the party who seeks the court to exercise its discretion in his favour must come to court with clean hands and full facts. Suppression of material facts will disentitle the party seeking an injunction order.
11. In ***Hubbard & Another v Vosper & Another*** [ 1972] 2 Q.B. 84 Lord Denning said:

*In considering whether to grant an interlocutory injunction, the right course for a judge is to look at the whole case. He must have regard not only to the strength of the claim but also the strength of the defence, and then decide what is best to be done. Sometimes it is best to grant an injunction so as to maintain the status quo until the trial. At other times it is best not to impose a restraint upon the defendant but leave him free to go ahead. ....*

*The remedy by interlocutory injunction is so useful that it should be kept flexible and discretionary. It must not be made the subject of strict rules.*

12. Interim injunction is a relief that cannot be granted solely or independently without any final or substantive relief. A party who has not sought any substantive relief or who does not have a prima facie winnable case has no right in law to seek an interim injunction, as it cannot be a relief by itself but is only a mechanism to assist and protect final relief.
13. **American Cyanamid Co. v Ethicon Ltd** [1975] UKHL 1; [1975] 2 W.L.R. 316, [1975] A.C. 396

The appellant, American Cyanamid Co., an American company, owned a patent covering certain sterile absorbable surgical sutures. The respondent, Ethicon Limited, also an American Company, manufactured in the United States and were about to launch on the British market a suture which the appellant claimed infringed their patent. The respondent contested its validity on diverse grounds and also contended that it did not cover their product. In an action for an injunction the appellant applied for an interlocutory injunction which was granted by the judge at first instance with the usual undertaking in damages by the appellant. The Court of Appeal reversed his decision on the ground that no prima facie case of infringement had been made out and the appellant appealed.

14. In the said case Lord Diplock laid down certain guidelines for the courts to consider in deciding whether to grant or refuse an interim injunction which are still regarded as the leading source of the law on interim injunctions. They are:
  - a. *Whether there is a serious question to be tried at the hearing of the substantive matter;*
  - b. *Whether the party seeking an injunction will suffer irreparable harm if the injunction is denied, that is whether he could be adequately compensated by an award of damages as a result of the defendant continuing to do what was sought to be enjoined; and*
  - c. *In whose favour the balance of convenience lie if the injunction is granted or refused.*
15. **Kerr LJ in Cambridge Nutrition Ltd v BBC** [1990] 3 All ER 523 at 534 said:

*"It is important to bear in mind that the American Cyanamid case contains no principle of universal application. The only such principle is the statutory power of the court to grant injunctions when it is just and convenient to do so. The American Cyanamid case is no more than a set of useful guidelines which apply in many cases. It must never be used as a rule of thumb, let alone as a straitjacket .... The American Cyanamid case provides an authoritative and most helpful approach to cases where the function of the court in relation to the grant or refusal of interim injunctions is to hold the balance as justly as possible in situations where the substantial issues between the parties can only be resolved by a trial".*

16. In the case of ***Series 5 Software Ltd v Clerk and others [1996] 1 All ER 853*** the court after considering the decision in American Cyanamid and various other authorities on the subject held that;

*“In deciding whether to grant interlocutory relief, the court should bear the following matters in mind:*

- (1) The grant of an interlocutory injunction is a matter of discretion and depends on all the facts of the case.*
- (2) There are no fixed rules as to when an injunction should or should not be granted. The relief must be kept flexible.*
- (3) Because of the practice adopted on the hearing of applications for interlocutory relief, the court should rarely attempt resolve complex issues of disputed facts or law.*
- (4) Major factors the court can bear in mind are (a) the extent to which damages are likely to be an adequate remedy for each party and the ability of the other party to pay, (b) the balance of convenience, (c) the maintenance of the status quo, and (d) any clear view the court may reach as to the relative strength of the parties’ cases”.*

**Injunctive Reliefs Sought:**

17. The Applicants, as per their Inter Parte Notice of Motion, seek for 3 orders in the nature of injunction, which are reproduced in paragraph 4 above.
18. The Respondent LTA on 05<sup>th</sup> March 2024 filed its Affidavit in opposition sworn by PAULINI MATADRADRA , the Acting Branch Manager of the Lautoka Region , together with annexures marked as “PM-1” to “PM -6” revealing some nefarious activities behind this Application preferred by the Applicant, some of which are as follows;
- a. The list of names and permit numbers with its expiry dates described in paragraph 3 of the Affidavit in support, was never legally issued by the Respondent Authority.*
  - b. That these Taxi “permits” were illegally obtained by the Applicants and are part of the ‘Taxi Permit Scheme’ , which was just recently brought to the attention of the Respondent sometimes in January 2024.*
  - c. There is a current freeze for taxi permits pending comprehensive consultations with stakeholders such as the Ministry of Local Government, Municipal Councils and the iTAUKEI Land Trust Board for better identification, standardization, and administration of Taxi Permits.*
  - d. That no new permits were allowed to be processed unless the Cabinet had uplifted the freeze came in pursuant to a Cabinet decision made on 3<sup>rd</sup> October 2023.*
  - e. In the event the Cabinet uplift the freeze, the Respondent then will facilitate the processing of any new Taxi Permit Applications after advertising.*

- f. That the last valid Taxi permits issued in the 2018 barrel draw is LT 7755 and any Taxi Permit bearing number less than LT 7755 is expired and no longer valid.*
  - g. That the Permits shown in the list of paragraph 3 of the Affidavit in support have expired and no longer valid and they are not picked up in the system.*
  - h. The Applicants through their contacts within the Respondent's employment (who are now suspended) was able to obtain these illegal Taxi Permits.*
  - i. The Respondent did conduct investigations into these illegal permits as soon as this "Scheme" was discovered, which led to the operation of seizing and revocation of number plates.*
  - j. These illegal permits are in breach of the Act and Regulations that regulate the said permits and it is unlawful for the Applicants to have the same in possession and continue to operate on the said illegal permits.*
19. It is to be observed that none of the Applicants filed their Affidavit in reply refuting and challenging the revelation made as above in the Affidavit in opposition, though they had been given ample time to file their Affidavit in Reply. Thus, the opposition brought out by the Respondent remained unchallenged by the Applicants.
20. As the parties agreed for the disposal of the hearing into this Application for injunction by way of written submission, they were left at liberty of filing their respective written submissions. But, only the Respondent filed its written submission reiterating their objection for the reliefs sought by the Applicant, by citing number of case law authorities. I thank the Counsel for the Respondent for the same. However, the Applicants failed to file at least their written submissions to substantiate their position with legal arguments, if any, to establish that they have a prima facie winnable case, and/or there are serious issues to be tried and irreparable damages will be caused to them if injunction orders sought are not granted.
21. In view of the revelation by the Respondent Authority, it is abundantly clear that the Applicants do not have a prima facie winnable case and/or any serious issues to be tried at the substantive matter, if it proceeds further. Their action is doomed to fail.
22. When it is clear that the substantive reliefs sought in the main Application is bound to fail, no purpose will be served by issuing injunctive orders as sought by the Applicants.
23. It has been brought to my attention that on the complaint made by the Respondent LTA, the FICAC is further investigating the matter with the view of prosecuting all the individuals involved in this illegal scheme. Thus, this Court should not lend its hand to such illegal activities.
24. Before depart, I must put on record that the Applicants, possibly, being partners of this illegal activities should not have attempted to abuse the process of this Court in this manner, and their Solicitors too, being the officers of Court, should have exercised more

caution in bringing this kind of Applications before this Court, when the Court is burdened with urgent and important matters.

25. The Applicants were aware of the tainted history of all these illegal permits. The Solicitors for the Applicants too should have become aware of the propriety of these permits and there was a cabinet decision which has frozen the process of issuing new permits. When there is a decision of this nature by the Cabinet, the Solicitors should have been vigilant in filing a substantive action of this nature, moving for injunctive orders on it, unless they decided to move this Court by way of judicial review, if it was appropriate. At least, once the Affidavit in opposition was filed with the particulars of the illegal Permits, they could have withdrawn the Applications in order to save the precious time of this Court.
26. Generally, Injunctive Orders are moved for and granted to preserve the subject matter till a final determination of the substantive matter. If no substantive relief is available at the end, no injunctive relief can be granted. The Applicants are not before this Court with clean hands.
27. Considering the above, I decide to impose a summarily assessed costs in a sum of \$2,500.00 payable by the Applicants to the Respondent Authority.

#### ORDERS

- a. The injunction Orders sought, in the Inter-Parte Notice of Motion filed on 26<sup>th</sup> January 2024, are declined.
- b. The said Inter-Parte Notice of Motion is hereby dismissed.
- c. The Applicants shall pay the Respondent Authority a sum of \$2,500.00 within 21 days, being the summarily assessed costs on this Application for injunction Orders.

  
A.M. Mohamed Mackie  
Judge



At the High Court of Lautoka on this 17<sup>th</sup> day of July, 2025.

#### **SOLICITORS:**

**For the Plaintiff:**

**Messrs. Iqbal Khan & Associates, Barristers & Solicitors**

**For the Respondent:**

**In-house Solicitors, Land Transport Authority**