

IN THE HIGH COURT OF FIJI
AT SUVA
CIVIL JURISDICTION

Civil Action No. HBC 310 of 2018

BETWEEN : **NAVIN KUMAR**
Plaintiff

AND : **BAL KRISHNA**
First Defendant

DIRECTOR OF LANDS
Second Defendant

ATTORNEY-GENERAL'S OFFICE
Third Defendant

Counsel : **Mr AK Singh for the Plaintiff**
No appearance for 1st Defendant (his wife is present)
Mr Ali as Friend of the Court (assisting 1st Defendant)
Mr V Ram for 2 & 3rd Defendants

Hearing : **11 September 2025**

Judgment : **11 September 2025**

EXTEMPORE JUDGMENT

- [1] There is an application before the Court made by the Plaintiff for orders to enforce the Judgment of Mansoor J dated 28 October 2022.¹
- [2] Mansoor J determined that the Plaintiff's claim should succeed. The dispute before His Lordship concerned the sale of the First Defendant's lease property to the Plaintiff described as '*State Lease No. 855785, lot 1 on DP No. 9219*'² (**the property**). The two parties had entered into a Sale & Purchase Agreement on 20 May 2014 for the sale of the property for the amount of \$150,000. The Plaintiff was required under the agreement to pay the amount of \$6,555.00 to the Director of Lands to clear arrears of ground rental. The Plaintiff did so but the First Defendant refused to complete the transfer and did not apply for the consent of the Director of Lands for the same. His Lordship determined that the Plaintiff had an enforceable contract with the First Defendant and made orders for specific performance directing the First Defendant to comply with his obligations under the Sale and Purchase Agreement. The First Defendant was directed to lodge an application for consent with the Director of Lands within 21 days and also pay costs of \$2,000, again within 21 days.
- [3] The First Defendant has complied with none of the orders of Mansoor J, and hence the Plaintiff has sought orders to enforce that judgment. On 25 February 2025, the Plaintiff filed an Ex-Parte Notice of Motion seeking leave to issue committal proceedings. Leave was granted on 7 April 2025.
- [4] The First Defendant has not appeared on the many occasions this matter has been called since March 2025. His wife (Sunila Devi) has attended on several occasions and the

¹ *Kumar v Krishna* [2022] FJHC 676 (28 October 2022).

² Para 4 of Judgment of Mansoor J.

Legal Aid Commission (**LAC**) has assisted her as a Friend of the Court. I am very grateful for LAC's assistance.

[5] It is clear that the First Defendant is not well. For this reason the Plaintiff has taken a different approach to enforcement of his earlier Judgment. A Summons was filed on 5 May 2025 seeking orders that will effectively result in the transfer of the property without requiring the First Defendants involvement. The Deputy Registrar of the High Court will effectively step in the shoes of the First Defendant to complete the transfer.

[6] There have since been a number of dates that this matter has been called. Mrs. Devi, has filed an affidavit (with the assistance of LAC) annexing medical reports indicating that the First Defendant has multiple medical conditions which are impacting on his ability to engage in these proceedings. His medical circumstances certainly preclude the making of any committal orders. However, the First Defendant cannot avoid the consequences of the 2022 Judgment and the proper transfer of the property to the Plaintiff.

[7] There being no valid basis offered against the making of the orders sought by the Plaintiff in its Summons of 5 May 2025,³ I am satisfied that the Plaintiff is entitled to the orders sought and, therefore, grant orders in terms of the summons, as per 2, 3, 4, 5, 6, 7, and 8 of the said Summons (with a slight adjustment to 8).

[8] Accordingly, my orders are as follows:

- i. The Registrar of Titles through the Attorney-General's Office is directed to proceed with registration of the transfer of State Lease No. 855785, lot 1 on DP

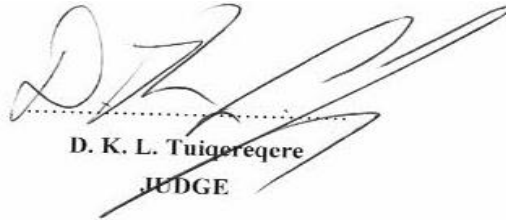
³ I have also taken into account the two affidavits filed for the Second Defendant on 23 June 2025 and 14 August 2025.

No. 9219 (the property) to the Plaintiff in terms of section 26 of the Land Transfer Act 1971.

- ii. The Deputy Registrar of the High Court is directed and/or authorised to execute the transfer documents, including the application for consents to the transfer, and application for Capital Gains Tax in respect of the property on behalf of the First Defendant in favour of the Plaintiff, in compliance with the High Court Judgment dated 28 October 2022.
- iii. The Director of Lands is to provide consent for the transfer within 14 days of the lodgement of the said application for consent.⁴
- iv. The Fiji Revenue and Customs Service is to provide approval for Capital Gains Tax within 14 days of submitting the application.
- v. The Plaintiff's solicitors are to proceed with all conveyancing work, including applications for Capital Gains Tax, consent from the Director of Lands, payment of Capital Gains Tax, and any other registration and/or pay costs of all conveyancing.
- vi. The Plaintiff is authorised to pay off all outstanding lease money on behalf of the First Defendant from the proceeds of the sale to the Director of Land and to Nasinu Town Council.
- vii. The Plaintiff's solicitors shall pay the balance to the First Defendant from the proceeds of the sale after deducting legal costs as ordered by the High Court on 28 October 2022.
- viii. Leave is reserved to any party to seek further orders.
- ix. In terms of costs for the present application, I appreciate the Plaintiff will have been put to additional cost enforcing his favourable Judgment. However, as I

⁴ Subject to the Plaintiff arranging for the payment of any rental arrears on the property.

have indicated, it appears that First Defendant's health is poor (as well as deteriorating) and, as such, there will be no order as to costs.



D. K. L. Tuigereqere
JUDGE

Solicitors:

AK Singh for the Plaintiff

Attorney-General's Chambers for the Second & Third Defendants

Office of the Legal Aid Commission as Friend of the Court