

IN THE HIGH COURT OF FIJI
WESTERN DIVISION AT LAUTOKA, FIJI
EXERCISING CIVIL JURISDICTION

CIVIL ACTION NO. HBC 219 OF 2022

BETWEEN : **SALESHNI LATA** of Lovu Lautoka, Domestic Duties, as
the Beneficiary of the ESTATE OF RAJKUMAR also known
as RAJ KUMAR late of Teidamu, Lautoka, Fiji, Retired,
Deceased, Intestate

PLAINTIFF

AND : **UMESH KUMAR** as the administrator ESTATE OF RAJKUMAR
also known as RAJ KUMAR of Teidamu, Lautoka.

DEFENDANT

BEFORE : A.M. Mohamed Mackie- J.

COUNSEL : Ms. S. Singh, for the Plaintiff
Mr. W Pillay, for the Defendant

HEARING : By way of Written Submissions.

WRITEN SUBMISSIONS: Filed by the Plaintiff on 21st July 2025
Not filed by the Defendant.

DATE OF RULING : 7th November 2025 at 10.00 am.

JUDGMENT

A. INTRODUCTION:

1. The Plaintiff filed her Originating Summons on 5th August 2022, which was amended on 07th March 2023 seeking the following reliefs against the Defendant;
 - a. *That the Defendant be ordered to disclose the Audited Estate accounts of Rajkumar aka Raj Kumar.*
 - b. *That the Defendant be ordered to disclose the list of inventories for the Estate including Bank Account with Westpac, together with any property documents of the said deceased estate.*
 - c. *That the Estate properties to be valued by a valuer to determine the market value of the property and costs to be incurred by Trustee.*
 - d. *That the Defendant be ordered to give 50% shares in ESTATE OF RAJKUMAR also known as RAJ KUMAR to the plaintiff as her entitlement.*
 - e. *That Estate properties be sold and/or mortgaged by the defendant to facilitate the 50% shares of the Plaintiff.*

- f. *Costs on client solicitor indemnity basis.*
 - g. *Any other orders that this court may deem just and equitable.*
2. The Plaintiff relied on the following grounds;
1. *That the deceased was domiciled in Teidamu and married with two children.*
 2. *The deceased's two children are namely Umesh Kumar and Salesni Lata.*
 3. *That deceased's Estate Letters of Administration was issued on 7th December 2016 to his Wife Prakashwati aka Prakash Wati.*
 4. *That the deceased's Estate was unadministered by Prakashwati aka Prakash Wati and who died on 23rd December 2016.*
 5. *The defendant approached the plaintiff to obtain the Letters of Administration De-Bonis None of their Late Father.*
 6. *That the defendant requested plaintiff's consent to obtain Letters of Administration De Bonis- Non for their late father's estate.*
 7. *The plaintiff signed the Deed of Renunciation on 8th May 2017 in favour of the defendant to obtain the Letters of Administration De-Bonis-Non.*
 8. *In the said Deed of Renunciation, the Plaintiff only consented for the defendant to obtain the Letters of Administration De-Bonis-Non and she had retained her shares in the Estate of her father - Estate of RajKumar aka Raj Kumar.*
 9. *That the Letters of Administration was issued under the Defendant's name on the 8th June 2017.*
 10. *That the plaintiff made numerous requests to the defendant to distribute their father's Estate, the defendant still fails to distribute the Estate.*
 11. *That the defendant till to date has failed to provide the Estate accounts to the plaintiff.*
 12. *That the defendant is obliged by virtue of the Letters of Administration De-Bonis-Non to transfer half of the property and half of the personal assets onto the plaintiff's name.*
 13. *That in breach of its duty, the defendant has failed to distribute the Estate of Rajkumar aka Raj Kumar till to date.*
3. The amended Originating Summons ("the Application") is supported by the Affidavit sworn by the Plaintiff on 21st July 2022 and filed along with annexures marked from "SL-1" to "SL-4, which are enumerated as follows;
- a. Copy of the Probate ("SL-1") granted to Plaintiff's Mother PRAKASHWATI a.k.a PRAKASH WATI for the administration of the Estate of Plaintiff's and the Defendant's late Father RAJKUMAR a.k.a RAJ KUMAR.
 - b. Copy of the Deed of Renunciation ("SL-2") (consent) of the Plaintiff given to the Defendant for him to apply for the probate in lieu of their late Mother

Prakashwati a.k.a Prakash Wati , who had died leaving the deceased **Rajkumar's a.k.a Raj Kumar's** Estate unadministered.

- c. Copy of the Probate LA DBN NO.60289 ("SK-3") granted to the Defendant.
- d. Copy of the letter dated 22nd June 2022 (SL -4") sent to the Defendant by the Plaintiff's Solicitors requiring to disclose all details, accounts and documents related to the Estate of her late father Rajkumar aka Raj Kumar

B. SEQUENCE OF EVENTS:

- 4. The Application being, reportedly, served on the Defendant, his Solicitors filed their acknowledgement of service on 22nd August 2022, and on 8th May 2023 obtained 21 days' time to file Affidavit in opposition, which was extended on two occasions for 21 days each and finally for 14 days on 12th September 2023.
- 5. The Defendant's solicitors on 27th September 2023 filed a SUMMONS (application) for Strike out pursuant to Order 18 Rule 18 (a) (b) (c) and (d) of the High Court Rules 1988, supported by an Affidavit sworn by the Defendant on 26th September 2023, with no annexures thereto. This Affidavit in support for striking out served as the Affidavit in opposition to the Plaintiff's Affidavit in support of the Originating Summons as well.
- 6. The Plaintiff on 21st November 2023 filed her Affidavit in opposition to the Defendant's Affidavit in support of Striking Out application, which also served as the reply to Defendant's Affidavit in opposition to the Plaintiff's Originating summons.
- 7. However, when the matter came up for hearing of the Striking out Application on 18th October 2024, Counsel for the Defendant moved to withdraw the Striking Out application and it was accordingly dismissed with no order for costs. The Defendant's Solicitors at this juncture, moved to file a supplementary affidavit, for which they were granted 21 days and the Plaintiff was left at the liberty to file response to it in 14 days, if needed, and the substantive matter was fixed for hearing on 27th November 2024.
- 8. The Defendant did not file any Supplementary Affidavit. However, on 12th March 2025 he filed his Affidavit in Reply to the Plaintiff's Affidavit in opposition sworn on 7th November 2023 and filed on 21st November 2023.
- 9. When the matter came up on 20th May 2025, both parties agreed to have the hearing in the substantive matter disposed by way of written submissions. However, direction was given for both counsels to appear with their written submissions on 21st July 2025 for them to make oral submissions, if needed, for a limited time.
- 10. Accordingly, when the matter came up on 21st July 2025, as both parties were not ready with written submissions as per the direction, the Plaintiff was granted 7 days to file and serve their written submission for the Defendant's Solicitors to file their submissions in 28 days and the matter was fixed for judgment on **20th October 2025**. However, the Plaintiff's written submissions was filed on the same date (i.e on 21st July 2025).

11. This Court did not sit on 20th October 2025, due to my being away from Fiji, and when the matter came up on 7th November 2025 for judgment, as the Defendant's solicitors had neither filed their written submissions nor moved to file their written submissions, the Court proceeded to pronounce the judgment on perusal of the contents of the record.

C. BACKGROUND:

12. Affidavits filed reveal that both the Plaintiff and the Defendant are respectively Daughter and son of one late RAJKUMAR aka RAJ KUMAR and PRAKASHWATI aka PRAKASH WATI, who are now deceased.
13. On the demise of RAJKUMAR on 1st July 2016, probate was granted on 7th December 2016 to his wife PRAKASHWATI (Mother of both the Plaintiff and the Defendant), who died on 23rd December 2016, leaving RAJKUMAR's Estate unadministered.
14. Then the Defendant made an Application for Probate in his name , with the consent of the Plaintiff, to administer the Estate of RAJKUMAR, and the same was granted to him on 8th June 2017, upon which the Plaintiff requested the Defendant to give her 50% shares of the Estate on her entitlement being a beneficiary thereof.
15. As her request was allegedly ignored by the Defendant, the Plaintiff through her Solicitors on 27th June 2022 sent a Demand Notice requiring the Defendant to disclose all details, accounts and documents related to the Estate from the 1st of June 2016. As this demand also was not met by the Defendant, the Plaintiff is now before this Court seeking for the aforesaid reliefs pursuant to Orders 7, 15 & 85 of the High Court Rules of 1988.

D. ANALYSIS


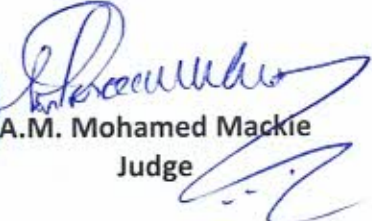
16. The Summons filed by the Defendant, seeking to strike out the Plaintiff's action pursuant to Order 18 Rule 18 (a), (b),(c) & (d), has now been dismissed on the withdrawal of the same. The main contention raised on behalf of the Defendant in the said summons was the propriety of the method adopted by the Plaintiff in filing this action. This is not an issue any more.
17. Further, the material averments in the Plaintiff's Affidavit in support, particularly, with regard to the relationship of parties, issuance of the Probate for the Estate of RAJKUMAR (Father) initially to their Mother PRAKASHWATI, and subsequently to the Defendant, with the consent of the Plaintiff, and the Estate remains unadministered, are not disputed by the Defendant.
18. What is mainly found in the Affidavit in opposition of the Defendant is mere denial of the Plaintiff's averments in her Affidavit. The contents of paragraph 4 and 9 of the Plaintiff's Affidavit, which is on the Plaintiff's claim for 50% entitlement as a beneficiary of the Estate, are not seriously disputed by the Defendant. The Defendant, has neither shown any serious issue between the parties to be tried at a formal trial nor averred any basis for such a dispute. The Defendant also chose not to respond to the letter of Demand dated 27th June 2022 (marked as "SL-4") sent by the Plaintiff's

Solicitors claiming the Plaintiff's 50% entitlement. This shows the Defendant's tacit admission of the Plaintiff's entitlement and the claim thereto.

19. The delay shown by the Defendant in filing the Affidavit in opposition and reply, which are devoid of material averments to oppose the Plaintiff's Application, filing of the Striking out Application only to be withdrawn, clearly show that the Defendant was in an attempt to delay the process in the absence of any tangible defence against the Plaintiff's claim.
20. Accordingly, I find that the Plaintiff has satisfied this Court that she is entitled for the reliefs claimed in her Amended Originating summons filed on 07th March 2022. Thus, in the absence of any defence advanced by the Defendant, with no alternative, this Court decides to grant the reliefs (a) to (e) as prayed for in the Plaintiff's amended Originating Summons.
21. Considering the circumstances, particularly, the delay caused, order the Defendant to pay the Plaintiff \$1,000.00 (One Thousand Fijian Dollars) as summarily assessed costs.

E. FINAL ORDERS:

- a. Orders sought in terms of paragraphs (a), (b), (c), (d) & (e) of the prayers to the Plaintiff's Amended Originating Summons, filed on 7th March 2023, are granted.
- b. The Defendant is ordered to pay the Plaintiff a sum of \$1000.00 (One Thousand Dollars), within 14 days from today, being the summarily assessed costs.
- c. Parties are at liberty to move for any ancillary Orders as and when needed.



A.M. Mohamed Mackie
Judge

At the High Court of Lautoka on this 7th day of November 2025.

SOLICITORS:

For the Plaintiff Messrs. Dayal Lawyers, Barrister & Solicitor
For the Defendant Messrs. Gordon & Co., Barristers & Solicitors