

IN THE HIGH COURT OF FIJI

AT SUVA

PROBATE JURISDICTION

Probate Action No. HPP 72 of 2023

[Caveat No. 17 of 2023]

**IN THE ESTATE of RAJANDRA
MANOHAN also known as RAJENDRA
MANOHAN also known as RAJENDRA
MANOHAR of 183 Princess Road, Suva in the
Republic of Fiji, Company Director.**

**BETWEEN : LILIAN REVEENA BHARAT of c/- Haniff Tuitoga, 12 Vesi Street,
Flagstaff, Suva, Executrix and Trustee.**

PLAINTIFF

**AND : KAVITA MANOHAR and ANUSHKA MAYA MANOHAR also known as
ANUSKHA MAYA MANOHAR of c/- Jiaoji Savou 23 Ono Street, Suva
Executrices and Trustees.**

1ST AND 2ND DEFENDANT

AND : SUMINTRA MANOHAR of 183 Princess Road, Tamavua, Suva.

3RD DEFENDANT

BEFORE : Hon. Justice Vishwa Datt Sharma

COUNSEL: Ms. Fong M. with Mr. Jamnadas K. for the Plaintiff

Mr. Savou J. for the 1st and 2nd Defendants

Ms. Gul F. with Mr. Sharma D. for the 3rd Defendant

DATE OF JUDGMENT: 25th February, 2026

JUDGMENT

*[Third Defendants Summons to appoint an Interim Board of Directors, Audit, Restraining
Order and Disclosure of Financials]*

Introduction

- (1) The Third Defendant, Sumintra Manohar, filed a Summons on 25th September 2024 and sought for the following orders:
1. **An Order** that this Honourable Court immediately appoint an Interim board of Directors including the Third Defendant to manage Manohan Aluminum & Glass (Fiji) Pte Limited, Mitre 10 (Fiji) Limited and Metro Glass (Fiji) Pte Limited.
 2. **An Order** that there be an audit of the **In the Estate of Rajandra Manohan** also known as Rajendra Manohan also known as Rajendra Manohar, and any other companies and properties comprising the Estate of an independent accounting firm;
 3. **An Order** that the Plaintiff be immediately restrained from acting as a sole Director and Shareholder of Manohan Aluminum & Glass (Fiji) Pte Limited, Mitre 10 (Fiji) Limited and Metro Glass (Fiji) Pte Limited and passing resolutions on behalf of these companies until this application is heard and determined.
 4. **An Order** that the Plaintiff be immediately restrained from paying any monies to herself or on her account for rental, legal fees, expenses, salaries or drawings from the income and assets of the Estate as well as the assets and income of Manohan Aluminum & Glass (Fiji) Pte Limited, Mitre 10 (Fiji) Limited and Metro Glass (Fiji) Pte Limited.
 5. **An Order** that monthly disclosure of financials relating to the companies and all Estate properties be provided to the Court on a monthly basis.
 6. That costs be costs in the cause; and
 7. Such further or other order(s) as this Honourable Court in the circumstances considers appropriate.

- (2) This application is made in Support of an affidavit deposed by Sumintra Manohar pursuant to orders 29 and 43 Rule 2 of the High Court Rules 1988, the inherent jurisdiction of the Court as well as Section 671 to 676 of the Companies Act 2015.

Plaintiff's Case

- (3) The Plaintiff, Lilian Reveena Bharat filed and relied on the affidavit in opposition to the 3rd Defendant's [Sumintra Manohar] Application coupled with the written and oral submission.
- (4) Written submissions of the Plaintiff was filed in opposition to the 1st and 2nd Defendants Application for Preliminary Issues.

Third Defendants Case

- (5) Legal submissions was filed and relied on by the third Defendant together with its oral and written submissions.

First and Second Defendants Case

- (6) Written submission of the First and Second Defendants (in support of the third Defendant's Application (for preservation of Assets of 25th September 2024) was also filed.
- (7) Submitted that the Plaintiff should be restrained from acting as Sole Director, and that the Court should exercise its wide discretion to appoint an interim management mechanism (an interim board) to safeguard the Estate.

The Law

- (8) **Order 29 of the High Court Rules 1988** deals with '*Interlocutory Injunctions, Interim Preservations of Property and Interim Payments etc*'. (O29)
- (9) **Order 43 Rule 2** of the High Court Rules 1988 deals with '*Court may direct taking of accounts etc* (O.43, R2).'

- (10) **Section 671 of the Companies Act 2015** deals with *Jurisdiction and Powers of the Court under the Act*.
- (11) **Section 676** deals with *Injunctions*.

Determination

- (12) The Plaintiff, Lilian Reveena Bharat is the Sole Executrix and Trustee appointed under the Will dated 1 November 2022 of Rajendra Manohan aka Rajendra Manohan aka Rajendra Manohar late of 183 Princess Road, Suva Fiji, Company Director.
- (13) The Writ of Summons is issued against the Defendants as the Executors and Trustees named in a pretended **Will** of the Deceased dated 2 November 2021.
- (14) The Defendants have advertised for **grant of Probate** in the Estate of the Deceased (Rajendra Manohar) in the Fiji Times Newspaper on Friday 7 April 2023.
- (15) The Plaintiff lodged a Caveat against the Grant of Probate for the Estate of the Deceased on 12th April 2023 on the **Alleged Will** dated 2nd November 2021.
- (16) The **Alleged Will** is dated earlier than the last will [1st November 2022], of Rajendra Manohan.
- (17) The Plaintiff claims:
- (i) That the Court shall pronounce in solemn form for the true **Last Will** [1st November 2022] of the Deceased Rajendra Manohan.
 - (ii) That the Court shall pronounce against the validity of the **Alleged Will** dated 2nd November 2021.
- (18) However, the Defendants say that the **First and Second Named Defendants** are the lawful issues, daughters, of the late Rajendra Manohan, who died on 23rd March 2023.
- (19) The Defendants say that the **Alleged Will** dated 1st November 2022 propounded by the Plaintiff is not a Testamentary Document because the said deceased did not name any beneficiaries in the alleged will, thus rendering it invalid as causing intestacy.

(20) The Defendants further say that the Execution of the **alleged Will** dated 1st November 2022 was procured by **undue Influence Exercised by the Plaintiff** together with Nikheel Nambiar Lawyer of Suva, on deceased.

(21) The Defendants are seeking the following orders:

1. The Deceased Executed his **Last True Will** on 2 November 2021, whereby he appointed the Defendants his Executors and Trustees and also residuary, legatees and devisees.

The Defendants claim:

1. That the Court shall pronounce against the **Alleged Will** 1st November 2022, propounded by the Plaintiff.
2. That the Court shall pronounce for the **Will** dated 2nd November 2021 in Solemn form of law.

(22) The Plaintiff submitted that:

1. The Application before the Court is ill conceived and simply wasting the time of the Court and the parties involved in these proceedings, and effectively an abuse of process.
2. The proceedings before the Court are purely to do with the determination of which of the Three (3) Wills is valid and pending the amendment application, whether the Deceased **Will** have died intestate?
3. The application is vexatious and designed to oppress the Plaintiff by directly affecting the earning capacity of the Plaintiff in her role as a validly appointed director, which was done prior to the death of Mr. Manohar.
4. The reason for the claim provided by the third Defendant appear to be based on a letter.
5. The Plaintiff has not used the letter to control or transfer assets of the Estate.
6. The Plaintiff is not holding herself out as being in charge of or having control over the Estate.

7. The provision of Order 43, rule 2 will decide any parties respective rights and avoid a long trial, in fact, the application is merely delaying the parties from getting to trial and the proceedings have nothing to do with deciding what the third defendant's rights are, merely trying to determine on which Will (if any) is applicable.
 8. The Applicant has no locus standing to seek the orders therein.
- (23) According to the Plaintiff, the Third Defendant's application relies on Section 671 and 676 of the Companies Act. It is outside the purview of the orders sought and this Court does not have the jurisdiction to grant the orders sought.
- (24) The Plaintiff is only a very minority shareholder in Manohan Aluminium & Glass (Fiji) Pte Limited [0.001%]. She is not a shareholder or director in the other two (2) companies.
- (25) The Plaintiff is holding herself out to be the Sole Executrix/ Trustee in the Estate of Rajendra Manohan as her previous lawyers, Haniff Tuitoga, had on their letterhead, provided a letter dated 17th January 2024 addressed 'To Whom it May Concern' and had stated that the Plaintiff *"is the sole person authorised in law to administer the Estate of Rajendra Manohan aka Rajendra Manohan aka Rajendra Manohar, and even though the Will of the Manohan is being challenged in Court, the Court has not made any order against Ms Bharat restraining her from administering the Estate of Rajendra Manohan. This of course, is sensible to ensure the continuity of business and to ensure that the property comprising the Estate is maintained while the Court is adjudicating on the matter."*
- (26) The Third Defendant raised its concern with the Plaintiff's failure to disclose any information relating to the current status of the Estate, its finances, and how the Plaintiff is conducting herself as Director and minority shareholder of the Manohan Aluminium & Glass (Fiji) Pte Limited. She has no interest in the other two (2) companies and should not be holding herself out as a director or shareholder in the other two companies or make any decisions relating to the two companies.
- (27) The Plaintiff has no right of ownership to the Estate property situated at 183 Princess Road, Suva, registered under late Raj Mohan. However, the Plaintiff lives in this property. On

Plaintiff's authorization Manohan Aluminum & Glass (Fiji) Pte Limited pays monthly rental for an apartment where she was previously residing.

- (28) The Defendants are the daughters of the deceased and beneficiaries under prior valid Will and are the primary challenges to the Plaintiff's claim for probate in the substantive action.
- (29) The Third Defendant seeks orders restraining the Plaintiff from acting as sole Director of the Estates companies and appointing an interim management board.
- (30) The Plaintiff purports to control the Estate's primary assets (the majority shares in Manohan Aluminium, Metro, Glass and Mitre 10) solely by virtue of being the Executrix named in the disputed 2022 Will. However, Probate has not been granted as of yet. The validity of that Will is the very subject of this litigation.
- (31) It is a foundational principle of probate law that where the validity of the Will is contested, the Court must ensure the Estate is not dissipated by the putative Executor before their title is established. Therefore, the Court must intervene where there is a necessity to preserve properties from dissipation.
- (32) Reference is made to Case of **Kumar v. Kumar**, [2016], FJHC 487; HPP 34 of 2013, which involved a dispute over the Will's validity involving a family business.

In **Kumar v. Kumar** - the Court held that the usual Rule regarding damages being an adequate remedy does not strictly apply where the validity of an instrument is challenged on grounds of fraud or misconduct. Chief Justice Kamal Kumar held at paragraph 2.15 of the judgment -

"When the Court is required to determine if any instrument was executed because of the fraudulent conduct...and the Court finds that any such instrument was forged or executed because of fraudulent conduct an undue influence, then the Courts should not hesitate to set aside such transaction even if damages would be an adequate remedy."

- (33) In the current case, the Defendants plead that the **Plaintiff's control of the Companies was procured through a Power of Attorney created 10 months after the donor was certified mentally incapable.**

- (34) Above constitute a fundamental legal nullity and fraud on the Company Registers.
- (35) The question that I pause to myself is the whether the Plaintiff's conduct is not limited to a dispute with the First and Second Defendants. It in fact reveals a systemic strategy to exclude all beneficiaries from the estate's affairs.
- (36) The affidavit of the Third Defendant deposes that she has been excluded from the information regarding the companies and the Estate's finances, despite being a named beneficiary in the prior Will.
- (37) The First and Second Defendants were removed from the Board on 15th November 2022. The question that arises here is whether the Plaintiff's objective is not the proper administration of the Estate but the consolidation of personal control to the exclusion of the rightful heirs? and whether the Plaintiff is treating Estate assets as her personal property?
- (38) The Plaintiff whilst using company funds to discharge personal rental [as this deposed in Third Defendant's Affidavit] obligations constitutes a flagrant breach of fiduciary duty and a misappropriation of corporate assets. This validates the Defendant's fear that the Plaintiff is dissipating the Estate's value for personal gain while the Probate Action No. 71736 is pending issuance of a Grant.

In Conclusion

- (39) The Court will exercise its jurisdiction under Section 29 of the Succession Probate Administration Act [SPAA] to appoint an administrator *pendente litre* to determine assets and protect the Deceased's Estates.
- (40) Further, since a party [Lilian Reveena Bharat] continues to remain involved in the business, the Court should invoke strict protection and mandatory conditions.
- (41) The continued control of the Deceased's Estate trading companies by the Putative Executor whose title is challenged not only constitutes a clear risk of the assets that necessitates the appointment of a neutral administrator, but to exercise absolute sole control over the Estate's trading business defeats the purpose of the ongoing litigation. If the assets are

dissipated by the Plaintiff during the proceedings, any eventual Judgment in favor of the Defendants would be rendered nugatory.

(42) The Plaintiff's title is inchoate until Grant of Probate. The Plaintiff acts as a *trustee de son tort* if she intermeddles with the Assets to the detriment of the beneficiaries.

(43) Notably Section 8 of the SPAA, pending the grant, the Estate vests in the Public Trustee. This statutory vesting confirms that the Plaintiff does not have legal title to the shares at the current time. Consequently, her exercise of voting rights to appoint herself as the Sole Director is questionable.

(44) In *Kumar v Kumar* [2016] FJHC 487; HPP 34 of 2013, the Court addressed the concerns regarding the management of the companies by interested parties pending the trial and adopted the full strict safeguards:

- **Monthly reporting** - the interim board shall file and serve monthly affidavit annexing the financial statements of the Companies.
- **Asset freeze** - the interim board shall be restrained from selling, mortgaging or charging any fixed assets of the companies without leave of the Court.
- **Status Quo Operation** - the business shall be operated in the ordinary course preserving the Status Quo until the validity of the Will is determined.

(45) The interest of justice and the orderly administration of Estates require that the Assets be placed in the safe hands pending the outcome of the trial and/or until the substantive matter has been determined.

(46) Preservation of the Estate property and in order to ensure the Asset is not dissipated by the Putative Executor before their title is established, and until the validity of the deceased's Will is determined, this Court needs to appoint an Interim Management Mechanism (an interim board) to safeguard the Deceased's Estate.

(47) The substantive proceedings currently before this Court is to determine the validity and genuineness. of the Deceased's Will upon which a Probate Grant will be issued for the executor(ix)/ trustee for the disposition of the Deceased's Estate of Rajandra Manohan aka Rajendra Manohan aka Rajendra Manohar.

Costs

(48) The Plaintiff to pay the third defendant summarily assessed costs of \$1,000 within 14 days timeframe.

(49) Following are the final orders of this Court:

1. Kavita Manohar, Anushka Manohar, and Sumintra Manohar are all appointed as joint Administration *Pendente Lite* of the Deceased's Estate of Rajandra Manohan aka Rajendra Manohan aka Rajendra Manohar pursuant to Section 29 of the Succession Probate and Administration Act.
2. The joint Administrators are empowered and directed to exercise the voting rights of the Estate's Shares to appoint themselves as the interim Board of the Directors of the Companies to manager Manohan Aluminium & Glass Fiji (Pte) Limited, Mitre 10 (Fiji) Limited and Metro Glass (Fiji) Pte Limited.
3. The Plaintiff is restrained from interfering with the management of the Companies.
4. The interim Board is subject to the reporting and asset - preservation conditions such as:
 - Operate the business exactly as he did prior to the Commencement of this action,
 - File monthly affidavits with financial statements,
 - Restrained from dealing with any fixed assets,
5. An audit in the estate of Rajandra Manohan aka Rajendra Manohan aka Rajendra Manohar and other Companies and properties comprising the Estate be immediately carried out by an Independent Accounting Firm and furnish a Report accordingly.

6. The Plaintiff is forthwith restrained from acting as a Sole Director and Shareholder of Manohan Aluminium and Glass (Fiji) Limited, Mitre 10 (Fiji) Limited and Metro Glass (Fiji) Pte Limited and passing resolutions on behalf of above Companies, until the substantive proceedings as to the validity of the Deceased's Will and Grant of Probate is heard and determined by this Court.
7. The Plaintiff with immediate effect is restrained from paying any monies to herself or on her account for Rental, Legal Fees, Expenses, Salaries or drawings from the income and assets of the Deceased's Estate as well as the assets and income of Manohan Aluminium and Glass (Fiji) Pte Limited, Mitre 10 (Fiji) Limited and Metro Glass (Fiji) Pte Limited.
8. Monthly Disclosure of financials relating to the Companies and all Deceased's Estate properties to be provided to the Court on a monthly basis.
9. The Plaintiff to pay the Third Defendant summarily assessed costs of \$1,000 within 14 days timeframe.

Dated at Suva this 25th day of February, 2026.




VISHWA DATT SHARMA
PUISNE JUDGE

CC: Messrs. Jamnadas and Associates, Suva
Mr. Jiaoji Savou Esq., Suva
R. Patel Lawyers, Suva