

**IN THE COURT OF APPEAL, FIJI**  
**[On Appeal from the High Court]**

**CIVIL APPEAL NO. ABU 066 of 2023**  
[In the High Court at Suva Case No. HPP 26 of 2016]

**BETWEEN** : **ROZINA BEGUM** of Sunnyvale, Henderson, Auckland, New Zealand, Health Care Assistant.

**Appellant**

[ORIGINAL PLAINTIFF]

**AND** : **ARTIKA ALVINA DEVI** Executrix & Trustee of the **ESTATE OF UMESH CHAND** of 110 Fletcher Road, Vatuwaqa, Doctor.

**Respondent**

[ORIGINAL DEFENDANT]

**Coram** : **Prematilaka, RJA**

**Counsel** : **Ms. T. Veinaba for the Appellant**  
**Respondent absent and unrepresented**

**Date of Hearing** : **30 January 2025**

**Date of Ruling** : **10 February 2025**

**RULING IN CHAMBERS**

[1] The appellant (then plaintiff) is the widow of late Parmesh Kumar and she challenged the last will of her late husband made on 03.06.2016 and also another will disclosed in the counterclaim made on 30.5.2016. The respondent (then defendant) had counterclaimed and sought to propound the last will made on 30.5.2016 by the deceased.

[2] The appellant's notice of appeal is against the High Court judgment delivered on 12 June 2023 where the High Court held that the last will dated 30.05.2016 by the deceased was the last will of deceased and that accordingly, the last will made on 03.06.2016 by deceased was held to be invalid.

[3] Security for cost had been ordered on 17 August 2023 and paid by the appellant. In the meantime the respondent had passed away and the appellant moved for substitution in place of the deceased respondent.

[4] In between, the appellant and the proposed substituted respondent, Artika Alvina Devi (Executrix & Trustee of the Estate of deceased Umesh Chand) have entered into a settlement of the dispute on 28 January 2025 which terms of settlement had been filed of record on 03 February 2025 with the proposed substituted respondent having signed the same in person. The solicitors for the appellant had filed on 06 February 2025 a Notice of Discontinuance ('ND'). As per the ND, the appellant wholly discontinues the appeal against the respondent with no further claims against each other but subject to the Terms of Settlement filed in court.

**Orders of the Court:**

[1] *Artika Alvina Devi is formally substituted in place of the deceased Umesh Chand.*

[2] *Orders in terms of the Terms of Settlement are hereby granted.*

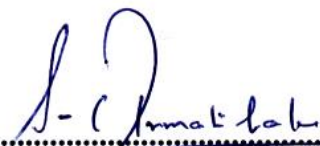
[3] *No further claims against each other.*

[4] *The application by the appellant to withdraw/discontinue the appeal is allowed.*

[5] *Appeal is accordingly dismissed in terms of section 20(1)(h) of the Court of Appeal Act, subject to the Terms of Settlement dated 28 January 2025 (filed on 03 February 2025).*

[6] *No order as to cost.*



  
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**Hon. Mr. Justice C. Prematilaka**  
**RÉSIDENT JUSTICE OF APPEAL**

**Solicitors:**

Messrs Pillai Naidu & Associates Lawyers for the Appellant  
Respondent absent and unrepresented