

IN THE HIGH COURT OF THE REPUBLIC OF FIJI
WESTERN DIVISION
AT LAUTOKA

CIVIL JURISDICTION

CIVIL ACTION NO. 32 OF 2014

**IN THE MATTER OF SECTION
169 OF THE LAND TRANSFER
ACT CAP 131.**

BETWEEN : **AVIKESH PRAKASH SHARMA aka VIKESH DATT**
SHARMA father's name Bhagwan Dutt Sharma formally
of Ba and now of Lot 20 Laucala Beach Estate, Nasinu,
Suva

Plaintiff

AND : **NITIN ROSHAN** of Lot 16, Vaturu Street Yalalevu, Ba

Defendant

Appearances:

Plaintiff in person

No appearance for the defendant

Date of Hearing : 07/05/2014

Date of Judgment: 07/05/2014

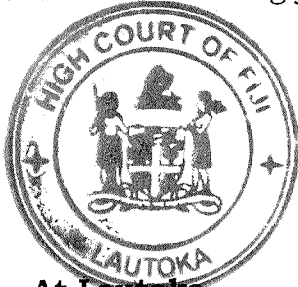
JUDGMENT

1. This is an application by way of originating summons under s.169 of the Land Transfer Act filed on 6 March 2014 whereby Plaintiff seeks vacant possession of the premises particularly on Lot 16 DP 1203 CT 7038 in the District of Ba having an area of 26 perches (the property).

The application is supported by an affidavit sworn by the plaintiff. The affidavit annexes documents marked "VPS1"-VPS12".

2. The Originating Summons has been personally served on the defendant on 14/03/2014. Afterwards, the Plaintiff filed a supplementary affidavit on 10/04/2014. I ordered the Plaintiff to serve the supplementary affidavit on the defendant. The Plaintiff accordingly served a copy of the supplementary affidavit on the defendant on 30/04/2014. An Affidavit of Service has been filed to this effect today – 7 May 2014. I am satisfied with the due service of the originating summons and the subsequent supplementary affidavit on the defendant.
3. The summons describes the property sufficiently. Therefore there has been compliance of sec. 170 of Land Transfer Act, pursuant to that section the summons must give description the land. Moreover, the summons which was served on 14 March 2014 requires the defendant to appear at the court on 22 April 2014, which is more than 16 days after the service of the summons. Another requirement of sec. 170 that the summons must require the defendant to appear at the court on a day not earlier than 16 days after the service of the summons has been complied with.
4. The Plaintiff is the administrator and registered proprietor of the property. Documents ("VPS1", being Letters of Administration *De Bonis Non* & "VPS2", being copy of the Certificate of Title No. 7038) annexed to the supplementary affidavit confirms the same. The documents confirm that the plaintiff is the registered proprietor of the property of which the plaintiff seeks possession.
5. Pursuant to sec. 169 (a) of the Land Transfer Act, the last registered proprietor may summon any person in possession of land to appear before a judge in chambers to show cause why the person summoned should not give up possession to the applicant.

6. The judge may grant order of possession pursuant to sec. 171 of the Land Transfer Act, if the persons summons does not appear, then upon proof to the satisfaction of the due service of such summons and upon proof of the title by the proprietor.
7. I am satisfied that the plaintiff is the last registered proprietor of the property. The Defendant had failed to appear at the Court and show cause why he should not deliver up possession to the plaintiff.
8. For the foregoing reasons, I grant order that the defendant to deliver up vacant possession of the property on Lot 16 DP 1203 CT 7038 in the District of Ba having an area of 26 perches forthwith to the Plaintiff with summarily assessed cost of \$350.00 payable to the plaintiff by the defendant.
9. Orders accordingly.



At Lautoka
07/05/14

M H Mohamed Ajmeer

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M H Mohamed Ajmeer
Master of the High Court