

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

[CIVIL JURISDICTION]

Civil Action No: HBC 83 of 2008

BETWEEN : **RAJEND SINGH** of Melbourne, Australia but presently
of Nadi Town, Nadi Businessman.

Plaintiff

AND : **PHUL KUAR** aka **PHUL KUMARI** of Votualevu, Nadi,
Domestic Duties and **SHIU NARAYAN** aka **SHIU**
NARAIN now of USA as Administrators of the Estate of
Pritam Singh also known as Pritam Nand also known as
Pritamnand.

1st Defendants

AND : **PREM SINGH** the Administrator of the Estate of Pritam
Singh also known as Pritam Nand also known as
Pritamnand.

2nd Defendant

AND : **PRAJAY INVESTMENTS LIMITED** a limited liability
company having its registered office at 1st Floor, Suite 6,
Nadi Motel Complex Main Street, Nadi.

3rd Defendant

AND : **FIJI SUGAR CORPORATION**

4th Defendant

Before : Hon. Mr. Justice R. S. S. Sapuvida

Counsel : Mr. Connors J. for the Plaintiff
Mr. Maopa E. for the 1st, 2nd and 3rd Defendants

Date of Judgment : 6th September 2016

JUDGMENT

- (1) The plaintiff in this case had originally instituted this action on **12th May 2008** against 6 defendants inclusive of the Director of Lands, the Attorney General of Fiji, and the Fiji Sugar Corporation Limited, among others as the initial parties.
- (2) Then the Plaintiff brought an **amendment** to the Statement of Claim on **10th November 2008**. The Plaintiff's cause of action and the claim against all the 6 defendants was for maladministration of the Estate and fraud.
- (3) The then 4th and 5th Defendants i.e. the Director of Lands and the Attorney General respectively on **15th February 2012** applied to strike out the action against them and accordingly the order was granted on **15th March 2012** with cost of \$4,000.00 in their favour striking out the names of 4th & 5th defendants from the action by Hon. Justice Inoke.
- (4) The Plaintiff then filed a further amended Writ of Summons and a **further amended statement** of claim on **9th September 2013** and the 1st, 2nd and 3rd defendants filed the amended statement of defence & the counter claim on **17th January 2014**, to which the plaintiff again filed the reply on **21 March 2014**, upon which is now the subject matter to be decided amongst the parties.
- (5) With the 2nd amendment made, there are only 4 defendants as seen in the caption above and the then 6th defendant, the Fiji Sugar Corporation Limited has been replaced in the caption as the 4th defendant.
- (6) Then exactly after a **lapse of 1 year** since the closure of the pleadings, when the case file was first allocated to me on **19th March 2015**, and mentioned in open court, the Solicitors for both the parties agreed upon to have the trial on **29th and 30th September 2015**, on which the two day trial was conducted and concluded before me.
- (7) The first named 1st defendant Phul Kaur died intestate on the **15th April, 2010** and it is not clear as to what steps were taken up thereafter by the plaintiff on the former, and yet the plaintiff has maintained the same caption and has

prosecuted the case against the all 4 defendants with no steps being taken up for substitution for the dead party.

- (8) The Estate (the Property) involved in this action is more fully described in the “further amended statement of claim” in its paragraph 4 as follows:

“ THE estate of Pritnam Singh also known as Pritnam Nand also known as Pritamnand, son of Nandu also known as Nandhu comprised inter-alia of lease Number 58063 comprising of 58a 2r 32.65p together with Farm Number 9850 Legalega Sector Lorry No. 1 and all improvements on the said land.”

- (9) According to the pre-trial conference minutes, following facts are admitted:

1. **THE** Plaintiff is the lawful son of Pritam Singh also known as Pritam Nand also known as Primnand son of Nandu also known as Nandhu.
2. **THE** said Pritam Singh died on or about the 11th day of August 1973 and Probate in respect of the said estate was duly granted by the High Court of Fiji to Phul Kumari daughter of Dhani Ram of Votualevu, Nadi and Shiu Narayan son of Shiu Shankar of Suva on the 24th of June 1975 (“said Administrators”).

3. **Clause 3** of the last will and Testament of the said Pritam Singh provided:

“I GIVE DEVISE AND BEQUETH all and singular my real and personal estate and effects of whatever nature or kind and whosoever situate to my sons PREM SINGH and RAJEND SINGH and my wife PHUL KUMARI of Votualevu, Nadi, Cultivators in equal shares and share alike subject to:

- (1) Payments of debts
 - (2) A legacy of \$1,000.00 to my daughters ANITA DEVI SINGH and AMITA DEVI SINGH once after their marriage and this legacy shall be a charge.
4. **THE** estate of Pritam Singh comprised inter-alia If Lease Number 58063 comprising of 58a 2r 32.65p together with Farm Number 9850 Legalega Sector Lorry No. 1 and all improvements on the said land. (“Said Land”).

5. **THE** Colonial Sugar Refining Company Limited were the original lessors of Lease Number 58063 forming part of C.T Number 6932 of land known as "Natavolivoli" and "Nawainitoki" (part) comprising of 59a 1r 25p.
6. **THE** colonial Sugar Refining Company Limited granted lease registered number 58963 over the said property to Pritam Singh for a term of fifty (50) years effective from the 1st of October 1953.
7. **THE** Director of Lands accepted the Lease granted to the said deceased on the original Lease Number 58065 and by memorial noted the same on the Certificate of title number 18331.
8. **THE** Plaintiff is one of the beneficiaries in the said estate.
9. **THE** 1st named Defendants and 2nd Defendant also are beneficiaries in the said estate.
10. **THE** 2nd named 1st Defendant is the Administrators of the said estate.
11. **ON** or about the 17th day of March, 1978 the 1st Defendants Administrators of the said Estate executed a Power of Attorney in favour of the 2nd Defendant (Prem Singh) registered number being 16634 who is also a beneficiary in the said estate.
12. **ALL** cane moneys from the farm are being paid by the FSC Lautoka to ANZ Bank Nadi Branch.
13. **THE** 2nd Defendant and his wife Pritika Singh formed a Company namely Prajay Investments Limited ("Said Company")
14. **THE** 3rd Defendant Prajay Investments Ltd is a private Company registered on the 25th of February 2005 with the Registrar of Companies comprising of the following officers and shareholders:

DIRECTORS

- (a) Prem Singh (2nd Defendant and Attorney of the 1st Defendants)
- (b) Pritika Singh (Wife of the 2nd Defendant)
- (c) Anita Lal (Sister)
- (d) Phul Kuar (Mother/1st named trustee of the estate)

SHAREHOLDERS

- (a) Prem Singh (Husband/Attorney/2nd Defendant) 51%
- (b) Pritika Singh (wife of 2nd Defendant) 49%

SECRETARY

Prem Singh (2nd Defendant)

- 15. **THE** 3rd Defendant is a limited liability Company having its registered Office at 1st Floor, Suite 6, Nadi Motel Complex, Main street, Nadi.
 - 16. **ON** the 4th day of May 2006, the Director of Lands through its Western Division, Lautoka issued an Approval Notice in the name of Prajay Investments Limited over the estate property of which the 2nd Defendant and his wife Pritika Singh are the only shareholders.
 - 17. **THE** Plaintiff claims against the 1st defendants as Administrators of the said estate.
 - 18. **THE** 4th defendant is sued as Nominal Defendant (no damages are sort) to abide by any orders made by this Honourable Court.
- (10) The issues between the parties:

- 1. **WHETHER** the estate had leased a Crown Lease No. 58063 for a period of 50 years which expired in 2003 but the sugar cane contract continued to be in the name of the estate to finish off the remaining sugarcane.
- 2. **WHETHER** on the 8th day of September 1978 Lease Number 9850 had been substituted by Certificate of Title Number 18331 comprising of 59a 1r 25p and issued and registered in the name of the "Director of Lands of Fiji"
- 3. **WHETHER** in 1985 the Lands Department served a notice to re-enter the estate land basically brought the function of the estate to a standstill.
- 4. **WHETHER** the lease over the estate land expired on 30th September 2003 and whether prior to such date the plaintiff and the 1st defendants were in Australia and New Zealand respectively and whether they were informed of the expiry of the lease and whether the plaintiff in his reply told the 2nd defendants that he was unable to do anything.

5. **WHETHER** the 1st defendant consented and authorised and 2nd defendant to apply for the lease under his name.
6. **WHETHER** the 1st defendants as Administrators of the said estate failed/neglected and/or refused to carry out their respective duties in terms of last Will and Testament of Pritam Singh in consequence of which the Plaintiff suffered loss and damage.
7. **WHETHER** the 1st Defendants as Administrators further failed and/or neglected to carry out their respective duties in the administration of the said Estate as provided under the Trustee Act Cap 65 in consequence of which the Plaintiff suffered loss and damage.
8. **WHETHER** the 1st defendants as Administrators owed a duty of care to the Plaintiff in the administration of the said Estate and whether they failed to discharge that duty in not distributing the estate in terms of the Last Will and Testament of the deceased.
9. **WHETHER** the 1st Defendants failed to keep proper record of all the income received from Farm Number 9850 Legalega Sector Lorry No. 1 which is under the name of estate.
10. **WHETHER** after the death of Pritam Singh, Shiu Narain was employed as civil servant and Phul Kumari being a widow looked after the children and whether one Mr Hassan Ali was brought in to cultivate the sugar cane farm on a two third (to Ali) to one third (to the estate) basis out of the net proceeds of sugar cane and whether such arrangement continued until 1998 when the 2nd defendant took over the cultivation of the farm.
11. **WHETHER** the power of attorney was executed in favour of the 2nd defendant because the 1st defendant had difficulty in dealing with the Agricultural Tribunal action and the pressure from the Department of Lands to vacate the estate property.
12. **WHETHER** the 2nd defendant knew or ought to have known that the original lease 580663 under the name of Pritam Singh subsequently substituted by Certificate of Title Number 18831 and was subject to extension under the Agricultural Landlord and Tenant Act.
13. **WHETHER** the 2nd Defendant as an experienced law clerk and/or ex law clerk in conveyancing section and as Attorney should have made the necessary inquiries with the Director of Lands for the statutory extension

of lease under Agricultural Landlord and Tenant Act and whether he failed/neglected and/or deliberately avoided to do so for the benefit of Prajay Investments Ltd of which his wife Pritika Singh and Himself are the only shareholders.

14. **WHETHER** the estate land came within the Nadi Town Council boundary in 1972 and town rate were assessed under assessment no 1059 and whether the 1st and the 2nd defendants defended an action by Nadi Town Council to recover the town rate in the sum of \$100,000.00 the estate owed until the expiry of the lease and whether on or about 25th April 1998, the Nadi Town Planning scheme was approved with the estate land zoned into Hotel use and open space and whether that restricted the estate from using the land for any other use which was predominantly sugarcane.
15. **WHETHER** the 2nd defendant being the majority shareholder and also a Director and the Attorney of the 1st Defendant formed the said Company with the fraudulent intention to permanently deprive the Plaintiff of his entitlement under the said Estate.
16. **WHETHER** the 2nd defendant as Attorney through fraud and deceit had an Approval Notice issued by the Director of Lands in the name of Prajay Investments Limited.
17. **WHETHER** the Plaintiff only came to know of the fraud on or about the 10th and 11th of September 2007 when he received certain correspondence from the Solicitors of the 2nd Defendant namely Babu Singh & Associates of Nadi.
18. **WHETHER** on the 27th of September 2007 the Plaintiff through his solicitors serve a notice on the 2nd Defendant giving in details the fraud perpetrated by him and whether again on the 28th of September 2007 the plaintiff wrote to the Director of Town and Country Planning complaining of the fraud and requesting that further actions be put on hold and that full inquiry be conducted in the matter.
19. **WHETHER** the 2nd defendant by virtue of his position as the Attorney of the Administrators of the said Estate has seriously breached the position of trust imposed on him and whether unless restrained by this Honourable Court is likely to commit further fraud and deprive the Plaintiff of his legal rights under the said Estate.

20. **WHETHER** the 2nd Defendant also had been receiving cane payment monies in respect of the estate property under cane Farm Number 9850 Legalega Sector Lorry No. 1 and whether so far had not paid any share to the Plaintiff.
21. **WHETHER** low income was received from harvesting of cane and whether it was used to maintain the estate property and defend the action against the Nadi Town Council by the 2nd Defendant and whether the proceeds were also used towards payment of lease owed to the Lands Department after being pressured to vacate the estate land and whether the 2nd defendant was operating the estate account.
22. **WHETHER** the said estate in any event would have been entitled to extension of the said lease under the Agricultural landlord and Tenant Act after the expiry period.
23. **WHETHER** the 1st and 2nd defendants were advised by the Lands Department that lease would not be renewed because of the Statutory Provision of ALTA Section 4 (a) and (b).
24. **WHETHER** on or about 1970 the activities of the Colonial Sugar Refining Company Limited and South Pacific Sugar Mills Limited were taken over by the Fiji Sugar Corporation Limited and the said land became part of the holding of the crown and hence came under the jurisdiction of the director of Lands.
25. **WHETHER** on the 8th day of September 1974 a Certificate of Title Number 18331 was issued in the name of the Director of Lands of Fiji (4th Defendant) in respect of the said lease as such as the Director of Lands of Fiji became the proprietor of the said property.
26. **WHETHER** the 2nd defendant in his capacity as the Attorney of the 1st Defendants who being the Administrators of the said estate had breached his duties as an Attorney.
27. **WHETHER** the Defendants through their servants/agents/employees failed and/or neglected in the performance and/or discharge of the duties.
28. **WHETHER** because of the aforesaid reasons in the various causes action aforesaid against the Defendant, the Plaintiff has suffered loss, damages & expenses and whether the loss includes but is not limited (to be quantified at the trial of this matter or earlier) value of surrender and/or selling off to

“Westmall” 14 acres of frontage land surrendered by the Defendants not for benefit and in breach of the Estate and/or its duties, Signage (Vodafone) income, two houses on Estate property income, ware house building income.

29. **WHETHER** there are about 45 families (squatters) on the estate property some of who were brought by the Plaintiff into the estate property.
30. **WHETHER** in 1988 the Plaintiff migrated and became an Australian Citizen and whether he has access to the estate funds being held in Sydney Bank and whether he fraudulently converted such funds without accounting for the same.
31. **WHETHER** the Plaintiff has used the estate funds to build his properties to the detriment of other beneficiaries.
32. **WHETHER** the Plaintiff applied to lease the estate property and whether his application was rejected as he is not a Fiji Citizen.
33. **WHETHER** the Plaintiff was given AUS \$25,000.00 by the 2nd Defendant and Anita Lal when being hospitalised in Melbourne Hospital.
34. **WHETHER** the Plaintiff was given normal share of \$30,000.00 as per share transfer in Khoobsurat Dulhan Limited, a company incorporated by the 2nd Defendant and his wife.
35. **WHETHER** the Defendant suffered loss, humiliation, mental distress and damages through the action of the Plaintiff.

THE TRIAL

(11) The following witnesses have given their oral evidence at the trial on behalf of the plaintiff's case except the Plaintiff:

1. Isoa Wakaciwa Kata - Property Valuer (PW-1)
2. Ana Rosmary Nagatalevu - Manager, ANZ Bank, Nadi (PW-2)
3. Abhay Ram - Registrar of Companies (PW-3)
4. Torika Goneca - Acting Deputy Registrar of Titels (PW - 4)
5. Waisea Radovu – Rate Officer, Nadi Town Council (PW -5)
6. Sudesh Singh – plaintiff's wife (PW -6)

7. Ratu Meli Nayavu Koroitamana – Acting Manager Planning & Building, Nadi Town Council (PW -7)
8. Lusiana Loloma – Immigration Officer (PW -8)

- (12) The Defendants neither called their witnesses nor gave their own oral testimony at their trial.
- (13) Both parties requested and tendered their written submissions along with the case law authorities they rely on.

EVIDENCE

- (14) The key witness in the plaintiff's case is the wife of the plaintiff - PW- 6.
- (15) She explained in her oral testimony as to why her husband cannot personally attend court to give evidence. The plaintiff is in Victoria, Australia under medical attention.
- (16) According to the evidence of PW-6, the plaintiff has met with a tragic accident in 2013. This incident had been occurred at Nadi. There had been a fire and an explosion at plaintiff's business premises injuring the plaintiff and killing another person on which a court case is still pending in the Magistrate's Court in Nadi.
- (17) The plaintiff has had extensive burns to his body and he is immunocompromised prone to life-threatening infections and he is legally blind due to these injuries. PW-6 produced his medical certificate [PEX-12] and the picture proof [PEW-13] on the above and his Doctor recommends that he is unfit to travel overseas. However, the Defendant's Counsel did not contest the Plaintiff's absence on those circumstances.
- (18) But, still the Defendants contest the two General Powers of Attorney [PEX-14 and PEX-15] given by the Plaintiff to his wife PW-6 which plaintiff's counsel produced at the trial.
- (19) The Defendant's Counsel in his written submissions points out that PW-6 cannot give evidence relying on the said 2 Powers of Attorney to stand on the shoes of the plaintiff to proceed with the claim and to give evidence as the plaintiff.

(20) The Counsel for Defendant's says that the authenticity of the documents are questionable, and pursuant to the Land Transfer Act Cap 131 – Part XVIII – Powers of Attorney: sections 118 and 119 (the Act) provides:

118. *Any registered proprietor of any land.....or of any estate or interest therein.....may by power of attorney either in general terms or specially authorize and appoint any person on his behalf...to make any application to any court or judge in relation thereto.*

119. *Every power of attorney intended to be used under the provision of this Act...shall be deposited with the Registrar who shall register the same by entering in the register A memorandum of the particulars therein contained and of the date and hour of its deposit with him.*

(21). He further asserts that the **PEX-14** and **PEX-15** fail to comply with the mandatory provision of section 119 of the Act. The Act only allows the holder of the power of attorney to make any application to court, but not fill in the shoes of the plaintiff and give evidence as the plaintiff. Thus, he argues that **PW-6** is unable to rely upon those exhibits and further brings the following line of submissions:

- *Still in this regard "A party could not do by an attorney an act which he was only competent to do by virtue of some duty of a personal nature requiring skill or discretion for its exercise".[Clauss and another v Pir [1987] 2 All ER 752: (cited in Kaur v Prasad [2014] FJHC 503; HBC 218.2013 (8 July 2014)*
- *In Kaur v Chandar (supra) the Master of the High Court refused to accept an affidavit evidence sworn by the attorney of the plaintiff and dismissed the application.*
- *It follows from the above that PW-6 is unable to fill the shoes of the plaintiff, by virtue of the power of attorney, when the plaintiff himself initiated the proceeding. She cannot give evidence as the plaintiff which the plaintiff himself is competent to do by virtue of the nature of alleged fraud known to him or in his personal knowledge and skills. Hence any evidence adduced by PW5 and purported to be that of the plaintiff ought to be disregarded.*

(22). On the face of the above argument it seems to me that the Counsel for the Defendants has slightly misunderstood the difference between an affidavit tendered by a holder of a power of attorney as evidence and the same person

giving his/her oral testimony in the witness box and affirming the personal knowledge with regard to the facts that person personally knows.

- (23). Plaintiff's witness **PW-6** is the wife of plaintiff who has given evidence on behalf of the plaintiff. She is just another witness who testified to the facts of which she has the personal knowledge especially with regard to the businesses of her husband and regarding the dispute among the parties. Even if she does not hold a power of attorney she should be a competent witness in the Plaintiff's case. The two Powers of Attorney **PEX-14** & **PEX-15** are two General Powers of Attorney given to her by her husband to look after various business affairs including the right to defend and to sue in any legal action on behalf and against the plaintiff, the **PW-6** being his wife.
- (24) Nevertheless, the Plaintiff's Counsel in reply to the objection of the Defendant's Counsel, also states in his written submissions that the **PW-6** did not stand in the shoes of the plaintiff. The Counsel for Plaintiff submits that the proceedings before this Court are not proceedings pursuant to the Land Transfer Act and no dealings are sought to be registered by Sudesh Singh pursuant to that Act at this time.
- (25) The Counsel submits: "*as was noted by Tuilevuka J. in Park v Registrar of Titles [2012] FJHC 1478; Civil Action 150.2012 (14 December 2012) :*

[20]. *A Power of Attorney is an instrument conferring authority by deed. If a Power of Attorney deals with any real estate, it must be registered with the Registrar of Titles under the provisions of the Land Transfer Act (see paras [14] to [17] above.*

[21]. *Otherwise, if the Power of Attorney concerns any other matter or property apart from real estate, it will be covered under the Property Law Act and the Registration Act but there is no requirement that it be registered with the Registrar of Deeds. A Deed (and Power of Attorney) not dealing with land, may be registered for the purpose of "publication, for preservation and for execution, or for one or more or all of these objects" as per section 3 of the Registration Act (see paragraph [10] above).*

[22]. *The above is consistent with the law in most common law jurisdictions."*

- (26) There was no challenge or objection by the Defendants to the calling of PW-6 during the trial and the Defendants have made no inference to her credibility as a witness as no evidence was called to contradict her evidence.
- (27) Therefore, I see no obstacle for her to come and give evidence in this case at first place and hence, I consider her evidence and the documents she tendered in the trial in order to decide and answer the issues in this case.
- (28) There are 21 documents produced by and on behalf of the plaintiff [PEX -1, to PEX - 21] while the 1st, 2nd, and 3rd defendants during the cross-examination of the plaintiff's witnesses marked DEX- 1, and DEX- 2. The Plaintiff's whole bundle of documents which includes the documents index numbers from 1 to 18 was marked as "PEX" with no objections from the Defendants from which the aforesaid PEX-1 to PEX-21 were marked & produced during the Plaintiff's trial.
- (29) On 17 March 1978 the 1st named two Defendants executed a Power of Attorney in favour of the 2nd Defendant on the basis that they were "**intending shortly to leave and for a time to be absent from the Dominion of Fiji**". This had taken place when the 2nd Defendant was still one of the executors, and this is admitted by the parties. [PEX 7]
- (30) On 10 May, 1978 the property was conveyed to the 1st named two Defendants by way of Transmission by Death No. 162523 [PEX - 6] which includes **the Probate No. 162524** granted by the Supreme Court **Case No. 13545** of the **Will of Pritnam Singh**.
- (31) On 15 February, 2001 a Partial Surrender of lease No. 58063 [PEX- 9] was registered on the application of the 2nd Defendant pursuant to Power of Attorney [PEX- doc 5] from the 1st Defendants.
- (32) On 10th February, 2005 the 3rd Defendant was incorporated with its shareholders being the 2nd Defendant and his wife Pritika Singh and the Directors being the 2nd Defendant, his wife Pritika Singh, the 1st named 1st Defendant, and Anita Lal the sister of both the Plaintiff & the 2nd Defendant. The Secretary of the 3rd Defendant Company is also the 2nd Defendant. The Plaintiff is not and has never been a shareholder or director of this company. [PEX- 2 and PEX- 3].

(33) On 28 March, 2006 the 2nd Defendant wrote to the Divisional Surveyor Western stating:

“Estate of Late Pritam Nand has three beneficiaries and according to his last Will, the beneficiaries have formed a limited liability company Prajay Investments Limited for the purposes of carrying out the subdivision.

All the beneficiaries under the Will of the deceased are the Directors of the company and the reason for the Development Lease to be in the company name is solely to raise the necessary funds to develop the land as otherwise the estate will be restricted to borrowing only up to \$10,000.00.” [PEX- doc 13].

(34) On 18 April, 2006 the Director of Lands issued an Approval Notice in the name of the 3rd Defendant, and on 4th May, 2006 the 3rd Defendant executed the acceptance of the approval notice. [PEX- doc 9]

(35) On 20 February, 2008 and 3 March, 2008 the 1st named Defendants executed a document introducing themselves as Administrators authorising the Director of Lands to issue a development lease in the name of the 3rd Defendant with respect to the property stating **“Prem Singh the beneficiary”** when in fact the 1st named Defendants were only two of three beneficiaries and not the Administrators. [PEX- doc 12]

(36) The expressed conduct of the 1st named Defendants and the 3rd Defendant (2nd Defendant & his wife being the shareholders and Directors) on the above shows their wilful gestures of dishonesty and fraud.

(37) It needs to come back again to the issue of the Power of Attorney [PEX- doc 5] to see whether or not in view of the **Succession Probate and Administration Act Cap 60 [SPAA Cap 60]**, it provides provision for an Executor to grant a Power of attorney in this nature.

(38) Yes, it is clear that there is provision within **SPAA Cap 60**, for an Executor to grant a power of attorney, and yet only under very strict rules limited to the following situations:

“Where person entitled to probate or administration is out of the jurisdiction

S. 28. Where an executor or any person entitled to probate or administration is out of the jurisdiction but has some person within the jurisdiction appointed under power of

attorney to act for him, administration may be granted to such attorney, but on behalf of the person entitled thereto, and on such terms and conditions as the court thinks fit:

S.45.-(1) When any probate or administration heretofore or hereafter granted by any court of competent jurisdiction, in any country or territory of the Commonwealth, is produced to and a copy thereof deposited with the Registrar by any person being the executor or administrator, whether original or by representation or by any person duly authorised by power of attorney in that behalf, duly executed by such executor or administrator, such probate or administration may be sealed with the seal of the court. *(Amended by Act 14 of 1975, s. 68.)*

(2) When so sealed, such probate or administration shall have the like force, effect and operation in Fiji and every executor and administrator thereunder shall perform the same duties and be subject to the same liabilities, as if such probate or administration had been originally granted by the court.

(3) The court may require any such administrator or attorney of an administrator, to give security for the due administration of the estate in respect of matters or claims in Fiji.”

(39). None of those forgoing limbs applicable to the **PEX- doc -5** as it reveals the mode of execution of it by the 1st Defendants, and the administration of the Estate by the 2nd Defendant do not fall within the purview of the said provisions. It does not convey a legal power to the 2nd Defendant to perform the functions that he has already performed under it because the power confers by the **PEX-doc-5** is merely fictitious.

(40). The Counsel for plaintiff pints out that the **Trustee Act Cap 65** enables a trustee to appoint a power of attorney but only if and for the time that a trustee is out of Fiji.

(41). Section 50(5) provides:

S. 50. (5):- A power of attorney given under the provisions of this section shall not come into operation unless and until the donor is out of Fiji or is incapable of performing all of his duties as a trustee, and shall be suspended by his return to Fiji or by his recovery of that capacity, as the case may be.

(42) Therefore, the Power of Attorney [**PEX- doc 5**] is an act of dishonest and has no legal authenticity at the time of its execution and during its existence on the above and for the following reasons:

a. The Defendants did not give their oral testimony or call any other witnesses to prove the Statement of Defense and to prove the averments with regard to the basis they relied upon specially regarding the

questioned Power of Attorney PEX-5, or to rebut the evidence of the plaintiff's witnesses on the contested matters in this case.

- b. The Amended Statement of Defence of the 1st 2nd and 3rd Defendants filed on 17 January, 2014 asserts in its paragraph 5 that the lease expired on 30 September, 2003 and that the Plaintiff and 1st Defendant were in Australia and New Zealand respectively. It alleges that the Plaintiff indicated he was unable to "do anything". But, there is no evidence to support this assertion apart from the fact that the lease was for 50 years from 1953. The Plaintiff was not an executor or trustee of the estate and had no obligation or right to deal with the estate or its leasehold interests and the Plaintiff had not met with the tragic accident by that time (2003).
- c. In paragraph 6, asserts that the 1st Defendant consented and authorised the 2nd Defendant to apply for the lease under his name. The 1st Defendant had a fiduciary duty to act for the benefit of all beneficiaries. If the Power of Attorney granted to the 2nd Defendant is valid then the 2nd Defendant had the same fiduciary duty, and no consent from one beneficiary/executor/trustee can reduce this duty.
- d. In paragraph 14, state that the Power of Attorney [PEX-5] was given as the "1st Defendant had difficulty in dealing with the Agricultural Tribunal Action and the pressure from the Department of Lands to vacate the estate property."
 - The Power of Attorney was granted in 1978. The lease did not expire until 2003 and there is no evidence of any action being taken by the Department of Lands in 1978, or at any time.
- e. **Paragraph 16** alleges that the rezoning of the estate land took place in 1998.
- f. **The only evidence before the court is that the rezoning took place in 2004 [Ex PEX 17 (a)]**
- g. **Paragraph 32** alleges that the Lands Department advised "*that the lease would not be renewed because of the Statutory Provision of Agricultural Landlord and Tenant Act Section 4(a) and (b).*"
 - **There is no evidence of any advice from the Lands Department. There are no subsections (a) or (b) to section 4 of the Agricultural Landlord and Tenant Act.**

- h.* There is no evidence to support any of the grounds of the Statement of Defense filed by the 1st named Defendants, 2nd, and 3rd Defendants.
- i.* The Counter Claim that is pleaded has not been pursued as no evidence has been given by or on behalf of the Defendants in support of it.
- (43) The following important facts relevant to the matters at issue were revealed from the evidence of **PW-6**, who is the wife of Plaintiff.

That –

- The 2nd Defendant arrived in Australia in 2005 with approx. A\$50,000.00 cash in his possession and that PW-6 assisted him in opening bank accounts at the ANZ bank Hallam, Victoria Australia. [PEX 16]
- She received \$25,000.00 from the 2nd Defendant at a later time.
- She was in Fiji in 2007 when she and her husband were removed from the estate house by the 2nd Defendant.
- She and her husband conduct businesses in Australia and in Fiji
- Since 2007 she has compelled to rent accommodation in Fiji at a cost of \$450.00 per month (for 8 years \$43,200.00)
- She and her husband on eviction from the estate house spent 7 weeks at the Capricorn Hotel, Nadi at a cost of \$5880.00
- In 1991 when she and her husband married they moved to Australia but continued to return to Fiji on a regular basis initially for the estate cane farm and subsequently for retail business interests in Nadi on all occasions until 2007 residing in the house in the Property.
- The 1st named 1st Defendant Phul Kuar visited her and her husband in Australia in 1991 and that was the first overseas trip that Phul Kuar had made.[PEX-21, produced through PW-8]
- She and her husband are citizens of both Fiji and Australia.
- 1st named 1st Defendant died on or about 15 April, 2010 without leaving a will.

- There are two sisters of the Plaintiff and 2nd Defendant.
 - 14 acres of the Property was sold to Westmall and the proceeds of sale were not distributed to the beneficiaries in the estate.
- (44). It is further revealed from the evidence of the plaintiff's case that the Lots 14, 15, 16 and 35 being part of the Property and having a total area of 6.36 acres and being part of the land in the Estate in 2007 had a value of approximately \$1,270,000.00 [PEX-1] and in 2015 has a value of \$2,336,000.00, and the evidence of the PW-1, the Valuer, was that the total site of 59ac has an estimated value of \$5,000,000.00 as at 2015.
- (45) The 2nd Defendant filed a Declaration of Assets, Liabilities and Income as at 21 August, 2014 with the Supervisor of Elections pursuant to the *Political Parties (Registration, Conduct, Funding and Disclosure) Decree 2013* [PEX- doc-15] stating that the assets of the 3rd Defendant were only \$500,000.00
- (46) The same declaration states that \$44,000.000 is held with the 4th Defendant for the Estate of Pritam Nand.
- (47) The Manager of the ANZ Bank, Nadi Branch [PW-2] says no bank account is now held at that bank in the name of Pritam Nand or Pritam Singh but that an account was previously so held. This contradicts the agreed fact in paragraph 12 of the Pre Trial Conference Minutes.
- (48) Two officers from Nadi Town Council [PW-5 and PW-7] were called by the plaintiff. The first officer gave evidence of the rating history of the estate land and confirmed that the sum of \$86,792.94 was written off in 2009 resulting in a FICAC investigation.
- (49) The other witness was the Acting Manager Planning & Building, Nadi Town Council [PW-7] who produced exhibits PEX 17 – 20 and confirmed that the Valuer General carries out valuation of land within the council area on an unimproved capital value basis for rating purposes. He also confirmed that the estate land with the exceptions of lots 36 and 37 on PEX 19 is within the Nadi Town Council area. The application for Approval of Plan of Subdivision was made by Prem Singh [PEX 18(b)]. The re-zoning of the estate land took place in 2004 [PEX 17(a)].
- (50) The PEX- doc-12 is a letter addressed to the Director of Lands and dated 20 February, 2008. The letter is written by the 1st Defendants describing

themselves as “**the Administrators** of the Estate of Pritam Nand” and authorise “Mr Prem Singh the beneficiary to make application for development lease over the above land under the company name Prajay Investments Limited”. At that time the 1st Defendants were Trustees and not Administrators or Executors. They had transmitted the real estate to themselves in 1978. [PEX- 6]. Prem Singh was not “THE BENEFICIARY” but one of three beneficiaries. The 1st defendants had a fiduciary duty to protect the interest of all beneficiaries. If the Power of Attorney [Ex PEX 7] was valid then one asks why such a letter was necessary. Prem Singh could have given the misleading information pursuant to the Power of Attorney.

- (51) Thereafter, again the 2nd Defendant on 28 March 2006, writes a letter [PEX- doc- 13] as Power of Attorney holder of Estate of Pritam Singh” to the Divisional Surveyor Western, Lands Department, Lautoka and states among other things “**All the beneficiaries under the Will of the deceased are the Directors of the company and the reason for the Development Lease to be in the company name is solely to raise the necessary funds to develop the land.**”
- (52) The Plaintiff’s Counsel advances the fact that the relevant involvement of people in the company is as shareholders and not as Directors. The only shareholders were 2nd Defendant Prem Singh and his wife. [PEX- 3]. This is clearly intended to mislead the Lands Department, and it was successful. If the Power of Attorney was valid then Prem Singh was in a fiduciary relationship with the beneficiaries including the Plaintiff and was obliged to protect his interests. This would be a clear breach of that fiduciary duty.
- (53) More interestingly, the PEX- doc- 14 is a letter on the letterhead of PREMAC CONSULTANCY addressed to The Divisional Surveyor Western and states that it acts for Prajay Investments Limited [the 3rd Defendant]. In paragraph 4, it states “**none of the beneficiaries attempted to re-apply for the said area except out Client Company with the consent and approval of the Administrators**”.
- (54) The true situation is that none of the beneficiaries had the legal capacity to apply for a lease. The trustees had the obligation to protect the interests of the beneficiaries and apply for a renewal of the lease or take the action that 2nd Defendant took for his own benefit.
- (55) The 2nd Defendant made a declaration pursuant to the *Political Parties (Registration, Conduct, Funding and Disclosures) Decree 2013*, on 21 August, 2014 stating that the shareholders of Prajay Investments Limited were he and his wife and that the value of the company was \$500,000.00. .He also included in

the declaration the Estate funds held with FSC in the sum of \$44,000.00. This should be clearly a false declaration as to the value of the Estate land when PEX- 1 shows a value of \$2,226,000.00 for only 6.36 acres of the total of 569 acres for which oral evidence from PW-1 was that it would have a value of approximately \$5,000,000.00. However, the verbal valuation cannot be accepted since the PW-1 orally made the comment in the witness box with no qualified report in his hand.

- (56) Moreover, there is more evidence from the plaintiff's documents tendered which shows that the Defendants particularly the 2nd Defendant either acting on the Power of Attorney he held from the Trustees of the estate, or in his own right, failed to renew the lease or apply for a fresh lease in the name of the trustees and applied for and, relying on false documents, acquired a lease in the name of a company controlled by he and his wife. If the 2nd Defendant had a legal right to acquire the lease why did he furnish letters to the Director of Lands containing completely dishonest statements as to the beneficiaries of the estate and the shareholders of his company? These points are also drawn to the attention of the Court by the Counsel for Plaintiff in his submissions which are quite relevant and correct in terms of the evidence.
- (57) Neither the 2nd Defendant nor the remaining 1st Defendant Shiu Narayan gave evidence to refute the plaintiff's allegations against them which are revealed to be true from the very documents produced by the plaintiff's witnesses.
- (58) The only attempts the Defendants have made are the written submission filed by their Counsel and the cross-examination of the plaintiff's witnesses. The Counsel attempts to attack the credibility by pointing out some inconsistent statements she made during her evidence.
- (59) The Defendants' Counsel submits that PW5 is not a credible witness. [However it should be corrected as "PW-6"].

The Counsel submits:

- Her testimony is contradictory and unreliable. She testified that she married the plaintiff in 1991 and resided in Fiji. Further she testified that in 1991 the plaintiff used to come to Fiji to harvest cane.

- she failed to inform the court when they migrated overseas in 1991, as they resided in Fiji and how the plaintiff used to come to Fiji to harvest cane in 1991.
 - She told the court that they were told to move out of the house by the first defendant in 2007. But later told she said her husband injured his head and the first defendant visited him in Australia.
 - Her evidence in cross examination that the plaintiff and herself are resident overseas. They operated business in Australia and only then visited Fiji from time to time. PW5 and the plaintiff were never residing in Fiji since 1991 but only visit to check their business and return from 2007. Due to the present dispute they have to rent a place when they come to Fiji from 2007 to check on their business.
- (60) The above points are not correct. The slight differences pertaining to the dates, her personal affairs like marriage, and travel history are totally immaterial to the matters at issue. The issue is whether the Defendants have properly administered the Estate concern. And for that the evidence from the plaintiff is disagreeing.
- (61) The real issue is the failure of the trustees or the person holding their Power of Attorney, 2nd Defendant, to protect the interests of all of the beneficiaries and do whatever was required to renew the existing lease or obtain a fresh lease.
- (62) The fact that 2nd Defendant was able to obtain a lease in the name of 3rd Defendant [his company] is clear evidence that a lease could have been obtained by the trustees for the benefit of the beneficiaries and in satisfaction of their fiduciary duty. It is this failure that is fundamental to the Plaintiff's claim which is proved with substantive evidence in contrary.
- (63) The Defendants though had made a counter claim did not call evidence or at least the 2nd Defendant being the main person acted on behalf of the Estate in numerous ways did not make any attempt to get into the witness box against which the plaintiff's counsel submits the following points and say that:

“ A leading authority on how the court is to treat the failure of the defendant to give evidence is *Jones v Dunkel* (1959) 101 CLR 298 which has been adopted with approval by the Fiji Court of Appeal in *FAI Insurance (Fiji) Limited v Prasad's Nationwide Transport Express Courier Limited* [2008] FJCA 101 ABU 0090.2004S

Windeyer J at paragraphs 16 and 17 in *Jones v Dunkel* said:

16. *This is plain common sense. If authority be needed, two passages from R. v. Burdett (1820) 4 B & Ald 95 (106 ER 873) may be cited. Abbott C.J. said: "No person is to be required to explain or contradict, until enough has been proved to warrant a reasonable and just conclusion against him, in the absence of explanation or contradiction; but when such proof has been given, and the nature of the case is such as to admit of explanation or contradiction, if the conclusion to which the proof tends be untrue, and the accused offers no explanation or contradiction; can human reason do otherwise than adopt the conclusion to which the proof tends? The premises may lead more or less strongly to the conclusion, and care must be taken not to draw the conclusion hastily; but in matters that regard the conduct of men, the certainty of mathematical demonstration cannot be required or expected." (1820) 4 B & Ald, at pp 161; 162 (106 ER, at p 898) And Best J. said: "Nor is it necessary that the fact not proved should be established by irrefragable inference. It is enough, if its existence be highly probable, particularly if the opposite party has it in his power to rebut it by evidence, and yet offers none; for then we have something like an admission that the presumption is just." (1820) 4 B & Ald, at p 122 (106 ER, at p 883) (at p321)*

17. *As Wigmore points out (Evidence 3rd ed. (1940) vol. 2, ss. 289, 290, pp. 171-180), exactly the same principles apply when a party, who is capable of testifying, fails to give evidence as in a case where any other available witness is not called. Unless a party's failure to give evidence be explained, it may lead rationally to an inference that his evidence would not help his case. These considerations have been discussed or applied in the following among other cases in Australian Courts: *Morgan v. Babcock & Wilcox Ltd.* [1929] HCA 25; (1929) 43 CLR 163, at p 178, per Isaacs J. [1929] HCA 25; (1929) 43 CLR 163, at p 178; *Insurance Commissioner v. Joyce* [1948] HCA 17; (1948) 77 CLR 39; per Rich J. (1948) 77 CLR, at p 49 and per Dixon J. (1948) 77 CLR, at p 61; *May v. O'Sullivan* [1955] HCA 38; (1955) 92 CLR 654; *Black v. Tung* (1953) VLR, at p 634; *Waddell v. Ware* (1957) VLR 43 and *Ex parte Jones; Re Macreadie* (1957) 75 WN (NSW) 136. Clearly, it is not necessary that any particular form of words be used in explaining all this to a jury. Every case is different; and standardised directions are not necessary. (at p322)*

- (64) There is no suggestion that the 2nd Defendant is not capable of testifying and there is no explanation for his failure to do so.
- (65) It should reasonably be concluded that the failure of the 2nd Defendant to give evidence is the obvious need to rebut or explain documents PEX- doc 12 to 15 in PEX, removal of cash to Australia and the fraudulent conduct leading to the

estate land to which his mother and brother were each entitled to one third being put into the name of a company the shares in which are owned by he and his wife alone.

- (66) There is substantive evidence in this case that the 1st named 1st Defendant was **not** out of Fiji until 1991. Her first overseas visit was in 1991. The statement in the Power of Attorney [PEX- 7] **obtained in 1988** is clearly a contraption to have the document comply with the legislation. On these premise, the Power of Attorney is void ab-initio. The 2nd Defendant was never given the legal authority to do the things that he did with respect to the estate land. He had no authority to take any action with respect to it solely by him. There is more than enough evidence brought by the plaintiff in this case to prove that has committed a fraud on the Estate and in particular on the Plaintiff.
- (67) Moreover, assuming that the 2nd Defendant had a valid Power of Attorney and then he had the obligation to act in the best interest of the beneficiaries due to his fiduciary duty. He clearly breached his fiduciary obligations by conniving to cause the Department of Lands to issue a lease in the name of a company the only shareholders of which are he and his wife, as pointed out by the plaintiff's submissions.
- (68) There has been no accounting of estate funds and the income has apparently been retained by the 2nd Defendant.
- (69) The *Agricultural Landlord and Tenant Act* defines "agricultural holding" and "agricultural land". The estate land is used for no other purpose and accordingly a renewal of the lease would have been granted under s. 13. Obtaining of a development lease in the name of a company owned by the 2nd Defendant and his wife was merely a fraudulent act to get the land into his name and control and for his benefit and to the detriment of the two other beneficiaries.
- (70) The conduct of the 2nd Defendant in breaching the currency controls by taking A\$50,000.00 in cash out of Fiji as testified by the PW-6, at least \$25000.00 has been taken out of Fiji by the 2nd Defendant [PEX-16] and in making a false declaration under the *Political Parties ((Registration, Conduct, Funding and Disclosures) Decree 2013*, shows a complete disregard for compliance with his legal obligations.
- (71) The Plaintiff's Counsel points out the fact that in view of his brother, Plaintiff's incapacity [bedbound] the 2nd Defendant's conduct is even more reprehensible,

and that I accept this conduct of the 2nd Defendant to put more weight on the Plaintiff's case.

- (72) The 1st named 1st Defendant, Phul Kaur died intestate leaving four children. Relevantly her estate consisted of a one third interest in the estate land. That interest on intestacy would pass equally to each of her four children i.e. the Plaintiff, the 2nd Defendant and their two sisters. However, an attempt had not been made to substitute her position in this case when she died pending this case in 2010.
- (73) The Defendant's Counsel tries to argue that none of the witness adduced any evidence that the 2nd Defendant in his personal capacity breaches any policy or procedures in dealing with the land after its expiry in 2003 or the formation and registration of the companies. He further says that the main issue the court must consider that the land in dispute is no longer under the Estate of Pritam Singh as the lease term was for 50 years from the first day of October 1953. The lease expired in 2003.
- (74) The Counsel for the Defendant is slightly mistaken the fact that there is documentary evidence and an admitted fact too that the Power of Attorney in question was obtained/given to the 2nd Defendant in 1988. Even if it is considered that the lease with regard to the Estate is expired in 2003, the Defendants are still liable to answer the proceeds for the period from 1988 to 2003.
- (75) The Counsel for Defendants also submitted in his written submissions that, since the striking out proceedings were successful against the then 4th & 5th Defendants, the whole action against all the Defendants should be failed.
- (76) In supporting the above he brings the following:

"In his ruling in this action to strike out the claim against the 4th and 5th defendants on 13th March 2012 the then Inoke J; at p7 & 8 said;

[7] In this one of the exceptional case for striking out. I think it is. I have no doubt that the plaintiff's claim... cannot be sustained simply because whatever rights the plaintiff's father had in respect of the land were extinguished when the lease expired and there was no application to extend it. It may well be that the administrators failed to apply for the

extension but I cannot see... how that it could ground a finding of fraud, negligence or collusion.

- [8] *Further when the Nadi Town Council Planning Scheme changed the zoning on 25th April 1998, it removed any possibility of the land being used as a farm and any right to extend it for a further term under the Agricultural Landlord and Tenant Act. So even if an application to extend the lease before it expires was made the application would have been rejected in any event."*
- (77) The striking out applications are usually made before the trial and are decided without calling evidence on the substantive matter purely depending on the facts deposed on affidavits of the parties concern.
- (78) Therefore, in this case it was the application made by the 4th & 5th Defendants, i.e. The Director of Lands and the Attorney General being two **Nominal Defendants** against whom the Plaintiff had not pursued any relief at the first place and for the other is that it is very unlikely to entertain an application for striking out by one or two of more defendants in a case. However, in this case it was not decided to strike out the whole action against the all defendant by the aforesaid judgment delivered in 2012.
- (79) On the basis of that I cannot accept the argument advanced by the Defendant's Counsel which suggests that in view of the said ruling, to say that the Plaintiff has no case against the rest of the Defendants.
- (80) The Defendant's Counsel further submits that the plaintiff's witnesses testified to give evidence for the plaintiff failed to establish and prove a shred of any element of fraud. He says, except PW5 all witnesses were called to just tender documents and most of which were not discovered and introduced for the first time to the defendants and to the court. Most without copies supplied to the defendants' Counsel. Those witnesses failed to adduce oral testimony as to how document relate to the plaintiff's claim and so on.
- (81) I cannot accept that position because the all most all of the documents tendered by the Plaintiff were tendered with relevance to the matters at issue among the parties in the case and that there were no objections by the Defendants at the time of tendering of those documents at the trial. The Plaintiff's witnesses tendered the documents and testified to the facts in those documents by referring to the issues in the case. The Plaintiff's witness PW-6 particularly

very accurately testified to the facts she knew personally and to the facts contained in the very documents she tendered.

- (82) The Defendants' Counsel submitted the following case law authorities and says that the Plaintiff's case should also be collapsed in the same way it has been held in these following cases:

"Sigatoka Builders Ltd v Pusha Ram & Ano. (unreported Lautoka High Court Civil Action No. HBC 182.01L, 22 April 2002, I had occasion to say:

Though evidence of fraud and collusion is often difficult to obtain, the evidence here falls a good way short of a standard requiring the court's further investigation.

In **Wallingford v Mutual Society** [1880] 5 AC 685 at p. 697 Lord Selbourne LC said: "With regard to fraud, if there be any principle which is perfectly well settled, it is that general allegations, however strong may be the words in which they are stated, are insufficient even to amount to an averment of fraud of which any Court ought to take notice. And here I find nothing but perfectly general and vague allegations of fraud. No single material fact is condended upon, in a manner which would enable any Court to understand what it was that was alleged to be fraudulent."

[Cited in Kumar v Vuiyasawa [2012] FJHC 1002; HBC 356. 2011 (2 April 2012)]"

- (83) However, the matters at issue when considered on case by case basis, in the above cases there may have been a situation where the court had found the allegations of fraud may have been vague, and decided as above to be without material facts. But in the instance case, I find that there is evidence to decide that the plaintiff's case is proved with substantive evidence to show the allegation of fraud and maladministration of the Estate clearly on the part of Defendants.
- (84) Yes, the onus is on the plaintiff to establish and prove negligence, maladministration of the estate and fraud by the defendants. The plaintiff has to establish and prove that the lease on the estate property at least existed till 2003. It has been clearly established by concrete evidence that it existed for 50 years from 1st October, 1953 to 30th September, 2003. Even though it is considered that the lease expired thereafter, the Defendants' acts are well within the period of lease of the Property in the Estate. The Plaintiff instituted

the actions in 2008. The first defendant is still the administrator of the estate and the second defendant still the holder of the power of attorney for the first defendant.

(85) On the evidence before me, I now answer the issues stated in paragraph 10 above as follows:

1. I answer the issue numbers, 1, 2, 5, 6, 7, 8, 9, 12, 13, 15, 16, 17, 18, 19, 20, 22, 26, 27, and 28, in affirmative.
2. The issue numbers, 3, 4, 10, 11, 14, 21, 23, 24, 25, 29, 30, 31, 32, 33, 34, and 35, in negative.

(86) Therefore, on the forging reasons, I hold that the Plaintiff has proved the case against the 2nd named 1st Defendant, 2nd Defendant, and the 3rd Defendant.

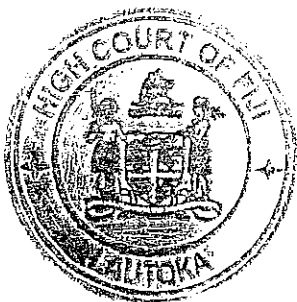
(87) Hence, I enter the judgment in favour of the Plaintiff.

(88) The 4th Defendant has been a nominal defendant and the plaintiff does not seek any relief against the 4th Defendant.

(89) The Plaintiff's case against the 4th Defendants is struck out and dismissed.

(90) Finally, the judgment is entered in favour of the Plaintiff with costs against the 2nd named 1st Defendant, the 2nd Defendant and the 3rd Defendant.

(91) The costs to be taxed unless agreed upon by the parties before the Master.

A handwritten signature in black ink, appearing to read "R. S. S. Sapuvida".

R. S. S. Sapuvida

[JUDGE]
High Court of Fiji

On the 6th day of September 2016
At Lautoka