

**IN THE HIGH COURT OF FIJI  
AT SUVA  
CIVIL JURISDICTION**

CIVIL ACTION NO.: HBC 179 of 2017

**BETWEEN** : **JOSUA RAIKABAKABA RATULEVU NO. 2** of Yavusa  
Nayavumata; **VILIAME ROKOVESA** of Yavusa Nauluvatu &  
**VERETI DUMARU** of Yavusa Vatuwaqa of Suvavou Village  
acting by and on behalf of members of Yavusa Nayavumata,  
Nauluvatu & Vatuwaqa, as Landowners.

**PLAINTIFFS**

**AND** : **AKEAI BOKANI**

**DEFENDANT**

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**APPEARANCES/REPRESENTATION**

**PLAINTIFF** : Mr. Valenitabua [Toganivalu & Valenitabua]  
**DEFENDANT** : Mr. Tuifagalele [Tuifagalele Legal]  
**RULING OF** : Acting Master Ms Vandhana Lal  
**DELIVERED ON** : 22 March 2019

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**JUDGMENT**  
[Vacant Possession]

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1. This is an application for vacant possession of premises/property at Lot 17 M/S, 3.3-1 ac 2r 00p in the Province of Rewa in the Tikina Suva made under Section 169 of the Land Transfer Act and Order 113 of the High Court Rules.
2. The plaintiffs are said to be acting by on behalf of the Yavusa Nayavumata, Yavusa Nauluvatu and Yavusa Vatuwaqa.

The administrator and trustee of the land i-Taukei Land Trust Board has authorised them to bring the application.

Annexure JRRVRVD1 is a letter from i-Taukei Land Trust Board dated 16 September 2016 giving consent to eviction of those in occupation of the land known as Korotamaidravu Island of Suvavou Village in the District of Suva.

The plaintiffs are said to be the landowners of the land.

Annexure JRRVRVD2 is said to be the copy title. However this is a letter dated 14 April 2016 from i-Taukei Land Trust Board addressed to one Josaia Ratulevu stating the following:

- i. Land in dispute is Lot 17 M/3.3 – 1ac 2r 00p;*
- ii. It is owned by the 3 Yavusa of Suvavou – Naulivatu, Nayavumata and Vatuwaqa;*
- iii. The land is occupied by Akeai Bokani who has resided there since 2006;*
- iv. It is understood that he is occupying the land in his capacity as a landowner, he is a member of Tokatoka Mataiqereqere of Mataqali Nayavumata;*
- v. It is advisable that the Yavusa meet with Akeai Bokani to work out a way forward to solving this dispute;*
- vi. The office of the Roko Tui can be approached to facilitate the meeting between the affected parties.*

The last lease was with Shreedhar Motors and which lease expired on 31 May 2000.

Annexure JRRVRVD 3 is copy of memorandum of lease for land known by the name of Koroitamadravu Island situated at Suva in province of Rewa and owned by Mataqali Nayavumata.

The defendant is said to be residing in the premises on the land which used to house the Delainavesi Police Post.

Said occupation is alleged to be unlawful and the defendant has failed, refused, and/or neglected to vacate the premises despite being served with a notice.

According to the applicants', the defendant's land situated in Delainavesi about 600m away from their land.

The defendant's elder brother had requested the applicants to temporarily occupy the land until the applicants' development project. The brother chose to reside elsewhere with the defendant moving on the land without the applicants or i-Taukei Land Trust Board's consent.

The members of the Mataqali have signed agreement to use the land for commercial purpose which will be a source of income for the members. The defendant's occupation of the land is hindering their project.

A Notice to Vacate was served on 20 October 2016.

3. The defendant claims to be a registered member of Tokatoka Mataiqereqere of Mataqali Nayavumata within Yavusa Nayavumata of Suvavou Village. Annexure "A" to his affidavit is excerpt copy of Mataqali VKB.

According to him, the i-Taukei to land parcel during the currency of lease or license to be required by the owners for their use maintenance or support or the land is occupied by the i-Taukei owners.

He is residing on the land for over 10 years when the lease of the land had expired. Hence the applicants and i-Taukei Land Trust Board are statute barred from leasing it.

The land is owned by Mataqali Nayavumata only, hence Viliame Rokovesa and Vereti Dumaru have no loans in the proceedings.

Since there is scarcity of land for Suvavou Village there is no need for any further leasing of the land by i-Taukei Land Trust Board.

When the lease had expired i-Taukei Land Trust Board had evicted the former occupants and did not find it worth to re-lease the same due to scarcity of land for landowners.

The signatures provided in applicants' annexure JRRVRVD 4 are questionable as there are no signatures from members of Yavusa Nauluvatu, Vatuwaqa and Tokatoka Mataiqereqere to support the representation to file this action.

4. I-Taukei Lands Act deals with i-Taukei lands.

Section 3 of the Act deals with the tenure of i-Taukei lands by i-Taukei and it reads:

*"i-Taukei lands shall be held by i-Taukei according to i-Taukei custom as evidenced by usage and tradition. Subject to the provisions hereinafter contained such lands may be cultivated, allotted and dealt with by i-Taukei as amongst themselves according to them i-Taukei customs and subject to any regulations made by the i-Taukei Affairs Board, and in the event of any dispute arising for legal decision in which the question of the tenure of land amongst i-Taukei is relevant all courts of law shall decide such disputes according to such regulation or i-Taukei custom and usage which shall be ascertained as a matter of facts by examination of witnesses capable of throwing light thereupon"*

5. Pursuant to section 4 of the i-Taukei Land Trust Act the control of all i-Taukei land shall be vested with the i-Taukei Land Trust Board and the land shall be administered by the Board for the benefit of the i-Taukei owners or for the benefit of the i-Taukei.

6. Pursuant to Section 9 of the i-Taukei Land Trust Act:

*"No i-Taukei land shall be dealt with by way of lease or license under the provision of this Act unless the Board is satisfied that the land proposed to be made the subject of such lease or license is not being beneficially occupied by the i-Taukei owners, and is not likely during the currency of*

*such lease or license to be required by the i-Taukei owners for their use, maintenance or support".*

7. As per the Memorandum of Lease the piece of land is owned by Mataqali Nayavumata.

Hence I do not find Viliame Rokovesa of Yavusa Nauluvatu and Vereti Dumaru of Yavusa Vatuwaqa have locus standi to bring action under Section 169 of Land Transfer Act or Order 113 of the High Court Rules.

8. The Respondent has presented a Certificate of Registration in the Vola in Kawa Bula (Register of the Native Landowners) according to which he is of Nayavumata Mataqali.

9. Hence I do not find it proper that the issues can be heard and resolved on the originating summon and affidavit evidence.

These are issues that need to be dealt pursuant to Section 3 of i-Taukei Land Act after examination of capable witnesses or the applicant can exercise its right under Section 4 of the said Act.

10. As such the application shall fail and is dismissed.

The plaintiffs are ordered to pay cost summarily assessed at \$1,000 to be paid in 14 days.



  
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**Vandhana Lal [Ms]**  
Acting Master  
At Suva.