

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

**HBC 151 of 2021**

**BETWEEN** : **VISHWA NADAN** of Lovu, Lautoka, Machinist.

**PLAINTIFF**

**AND** : **MARIAMMA** of Lovu, Lautoka, Domestic Duties.

**DEFENDANT**

Appearances: Ms. Ravuikadavu for the Plaintiff

Ms. Ravai for the Defendant

Date of Ruling: 08 August 2022

**R U L I N G**

1. Before me is the plaintiff's Summons filed on 06 April 2022 seeking an Order that leave be granted to add Bikhas Nadan Chakti as the second defendant to this action.
2. The application is filed under Order 15 Rule 4 of the High Court Rules 1988.
3. It is supported by an Affidavit sworn by Vishwa Nadan on 06 April 2022.
4. The substantive action in this matter is an Originating Summons filed by the plaintiff on 13 July 2021 wherein the Plaintiff claims the following:
  - (a) The defendant is the plaintiff's foster mother.
  - (b) The plaintiff and the defendant reside together on a piece of land in Lovu just outside Lautoka.
  - (c) The said land is comprised on Agreement for Lease i-TLTB No. 4/7/5043 known as ML 160 S/D Lot 6 in Vitogo in the Province of Ba.
  - (d) The plaintiff was actually raised by the defendant.
  - (e) After the plaintiff left school, she found employment. She began to help the defendant in maintaining the property and paying half the rental, electricity bills, water bills, and also assisted in the renewal of the lease in 2005.
  - (f) In 1994, the plaintiff married one Lalita Devi. He and Devi continued to reside with the Defendant on the property in question and the plaintiff continued to assist the Defendant as he had been doing.

- (g) At some point, the Defendant and the Plaintiff agreed that the Plaintiff should build his own house on the compound.
- (h) In June 2021, a small argument erupted between the plaintiff and the defendant. Immediately following that, the plaintiff approached the Defendant and requested that the piece of land be divided into two and that the plaintiff be issued with a separate lease over his half. The plaintiff was willing to pay for all the associated costs.
- (i) The defendant however did not agree but instead was willing to allow the plaintiff and his family to continue to reside on the land on certain conditions.
5. In his Originating Summons, the plaintiff seeks inter alia an Order that he be allowed to stay on the property as joint occupant "and that joint tenancy be made an Order" of this Court.
6. Now, in terms of the current joinder application, the plaintiff deposes at paragraph 7 of his supporting affidavit:
- "..it came to the Plaintiff's attention that the subject property has been transferred to the defendant's son on the 30<sup>th</sup> day of August 2021 where the registered dealing number 58979 attached herein is an annexure of the registered transfer .....
7. Clearly, the plaintiff claims a beneficial interest in the land in question. His claim against the defendant appears to be based on a claim to a beneficial entitlement to the same. However, while the case is pending, the defendant has proceeded to transfer the land to her son.
8. I am on the view that the son, namely, Bikhas Nadan Chakti, should be joined as a party. Accordingly, I grant Order in Terms.
9. Costs in the cause.



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Anare Tuilevuka  
**JUDGE**  
Lautoka

08 August 2022