

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

CIVIL ACTION NO.: HBC 360 of 2015

**BETWEEN : INDAR SEN
PLAINTIFF**

**AND : SATISH PRAKASH
FIRST DEFENDANT**

**: RASHMI DEVI
SECOND DEFENDANT**

APPEARANCES/REPRESENTATION

PLAINTIFF : Torah Law
DEFENDANTS : Amrit Chand Lawyers
INTENDED THIRD
DEFENDANT : Amrit Chand Lawyers
RULING BY : Acting Master Ms Vandhana Lal
DELIVERED ON : 19 August 2022

INTERLOCUTORY RULING

1. This is an application by the Plaintiff seeking leave to join Nikhil Prakash Sharma as a party (the Third Defendant) to this proceeding.

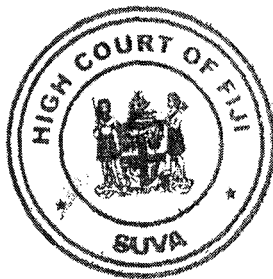
The application is made pursuant to Order 15 Rule 4 of the High Court Rules and is supported by an affidavit sworn by the Plaintiff on 02nd October 2020.

2. Reasons laid out by the Plaintiff for the joinder application can be summarized as follows:
 - The Plaintiff had an agreement with First Defendant to purchase the Defendant's land but the First Defendant never proceeded

ahead with the agreement blaming the Plaintiff of breaching the agreement.

- Hence his counsel filed an originating summons for specific performance.
 - A judgment was pronounced in his favor.
 - However, the First Defendant had transferred the land in dispute to Second Defendant.
 - For this subject matter the respective counsels were completing pre-trial conference, when the Plaintiff's counsel discovered the land has now being transferred to Nikhil Prasad Sharma whom he wishes to join as a party now.
 - He has subsequently filed a caveat on the land.
3. Though in his prayer (as per the draft amended claim) the Plaintiff seeks declaratory orders that the subject property was transferred by fraud he has not itemized in his pleading necessary particulars of fraud.
 4. The subject land is on Certificate Title 37386. The First Defendant transferred the property to the Second Defendant on 27th July 2016 on trust for Nikhil Prakash Sharma.
 5. On 15th July 2019 the property was transferred to Nikhil.
 6. The orders obtained in HB 360/15 was on 31st August 2018.
 7. On 11th May 2017 there was an injunction granted against the Defendant from dealing with the property.
 8. Though the draft claim may not be in compliance with Order 18 Rule 11 of the Rules the Plaintiff can be directed to further make necessary amendment to its draft claim to be in compliance with the Rules.

9. In order to sort out the issue regarding the property I find it necessary to join Nikhil as a party.
10. Leave is granted for the Plaintiff to add Nikhil as a Third Defendant to the proceedings and the Plaintiff to ensure the amended claim is in compliance with Order 18 rule 11 of the Rules. Particulars of fraud to be outlined.
11. Cost to be in cause.




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Vandhana Lal [Ms]
Acting Master
At Suva.

TO:

1. Suva High Court Civil File No. HBC 360 of 2015;
2. Torah Law, Solicitors for the Plaintiff;
3. Amrit Chand Lawyers, Solicitors for the Defendants and the intended Third Defendant.