

IN THE HIGH COURT OF FIJI AT SUVA
CENTRAL DIVISION
CIVIL (PROBATE) JURISDICTION

HPP No. 63/24

IN THE MATTER OF SECTION 7 OF THE
SUCCESSION, PROBATE AND
ADMINISTRATION ACT.

AND

IN THE MATTER OF ESTATE OF ANIL
PRAKASH SINGH aka ANIL PRAKASH
SINGH

Date of Hearing : 16 July 2024
For the Plaintiff : Ms. Singh N.
Date of Decision : 26 August 2024
Before : Waqainabete-Levaci, S.L.T.T, Puisne Judge

JUDGMENT
(EX-PARTE APPLICATION)

PART A - BACKGROUND

1. This is an application by the Applicant, Ms Poonam Shalini Singh, for the following Orders:
 1. That the Applicant Poonam Shalini Singh be declared as the defacto wife of the deceased;
 2. The Applicant Poonam Shalini Singh be declared to be entitled to apply for the Grant of Letters of Administration in the Estate of Anil Prakash Singh aka Anil Prakash.
3. The Application is filed pursuant to Order 7 of the High Court Rules and section 7 of the Succession, Trust and Administration Act Cap 60 (hereinafter referred to as the 'Act')

PART B: AFFIDAVITS

4. The Applicant lady filed her Affidavit in support admitting that she was the defacto partner of the Deceased a year after having divorced him on 1st December 2012. She had previously married the Deceased Anil Prakash Singh since 28 December 1984.
5. The Applicant deposed that the Deceased, Anil Prakash Singh also known as Anil Prakash died on the 2nd day of September 2023 at CWMH Hospital. The Deceased, Anil Prakash Singh also known as Anil Prakash was domiciled in Fiji at the time of death no Will or and had no testimony disposition.
6. They had three children during their marriage, Ashneel Prakash Singh, a male born on 14 January 1987, a male Prasneel Prakash Singh born on 14 January 1987 and a male, Jasneel Prakash Singh born on 1st May 1989.
7. She deposed obtaining advice by her solicitors to obtain a Letters of Administration for the Estate of the Deceased, Anil Prakash Singh which she has done.
8. A supplementary affidavit was filed by their children, Ashneel Prakash Singh and Jasneel Prakash Singh both residing in Australia both supporting the application by their mother, the Applicant to apply for Letters of Administration.

Part C: LAW ON APPLICATIONS BY DEFACTO PARTNER FOR LETTERS OF ADMINISTRATION INTESTATE

9. Section 3 (1) of the Probate, Succession and Administration Act and its Rules vests the jurisdiction of contentious and non-contentious probate matters to the Court.
10. The Applicant seeks to be granted the liberty to apply for Letters of Administration although she remains the Defactor partner at the time of death of the Deceased.
11. Section 7 of the Succession, Probate and Administration Act provides that Letters of Administration may be granted to a spouse or to any other person in accordance with the rules of succession in section 6 (1) (c) (i) of the Act as amended in 2018 enabling her entitlement to the Estate of the Deceased intestate as a defacto partner of the Deceased.
12. Section 2 of the Act as amended in 2018 defines defacto relationship as :-

"de facto relationship" means a relationship between a man and a woman who are at least 18 years of age and, although not legally married to each other, have lived with each other as spouses on a genuine domestic basis for—

- (a) a period of more than 3 years; or
- (b) a period of less than 3 years, provided—
 - (i) the relationship has resulted in the birth or adoption of a child; or
 - (ii) the court, having regard to the circumstances listed in section 154A of the Family Law Act 2003, considers it just to treat the relationship as a de facto relationship;"

Part D: ANALYSIS

13. Given the rules of succession in intestate under section 6 of the Act as amended, the affidavit deposed admitted that the Applicant resided with the Deceased after 1 year of their divorce, from December 2013 until the day of his death.
14. Her sons, who are the issues of marriage have admitted that the Applicant had continued to look after the Deceased as a husband and wife until his time of death.
15. The deposed Affidavit, which the Court accepts, is sufficient to establish that there was a defacto relationship that fell within the ambit of the Succession, Probate and Administration Act.
16. The Court therefore finds that the Applicant is thus entitled to apply, as a defacto partner, to the Estate of the Deceased namely Anil Prakash Singh also known as Anil Prakash. She qualifies under section 6 (1) (c) (i) of the Act as amended in 2018 together with the issues of the Deceased.
17. Costs will be borne by the Applicant.

Part E: Orders

18. The Court orders as follows:
 1. That the Applicant Poonam Shalini Singh be declared as the defacto wife of the deceased;
 2. The Applicant Poonam Shalini Singh be declared to be entitled to apply for the Grant of Letters of Administration in the Estate of Anil Prakash Singh aka Anil Prakash.

3. Costs borne by the Applicant.




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Senileba LTT Waqainabete-Levaci

Puisne Judge