

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

**Civil Action No. HBC 306 of 2018**

**BETWEEN:            JOWAVE RAVOUVOU VODO**  
**PLAINTIFF**

**AND:                 VATULELE ISLAND HOLDING LIMITED**  
**FIRST DEFENDANT**

**AND:                 DIRECTOR OF LANDS & MINERAL RESOURCES**  
**SECOND DEFENDANT**

**RULING ON PRELIMINARY ISSUES**

1. This matter is now fixed for 3-day Trial and the second Defendant, through the AG's chambers has pointed out that the AG is not a party to these proceedings, even though this is a mandatory requirement of the State Proceedings Act.
2. Section 12 (2) of the State Proceedings Act 1953 makes it clear that any suit against the State shall be against the Attorney General.
3. In the brief submissions before me yesterday, I had raised the issue with counsel why this issue was only being raised now. State counsel advised that he was only appearing now and he did not have an opportunity to consider this issue earlier.

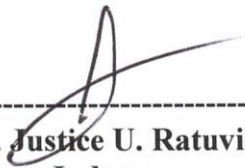
Counsel for the 1<sup>st</sup> Defendant pointed out that this issue had been pleaded in the Statement of Defence therefore this ought to have been clear to the Plaintiffs.

4. I agree that the above provisions are mandatory, the AG is always a party, even though it will inevitably be a nominal defendant nevertheless the Act requires that the Attorney-General is a party to the proceedings.
5. These proceedings are at the Trial stage and the Court is reluctant to shut the door on a party due to technical objections, when we are now in a position to properly ventilate the issues between the parties.
6. Order 2 of the High Court Rules gives this Court the power to consider what happens when parties do not comply with the Rules. Such defects do not automatically invalidate the pleading. The Court has the discretion to consider it as an irregularity (Order Rule 1) and make an order striking out the defective pleading and/or ordering amendments to the same (Order 2 Rule 2).
7. Order 20 Rule 5 further allows this Court to order amendments to pleadings with leave.
8. I have considered the objections, the stage of these proceedings and the overall interest of justice. I find that it is appropriate to order the Plaintiff to amend their pleadings to add the Attorney General as an additional nominal defendant.
9. There will be no prejudice to any party as there will be no need for any additional pleadings, the 2<sup>nd</sup> Defendant is the party who has answered the claim and has actively taken part in these proceedings. There is no need for any strikeout for Defence by the Attorney-General.

10. The Plaintiff will file and serve the amended pleadings by close of business today and any further submissions will reflect this amendment.

So ordered



  
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**Mr. Justice U. Ratuvi**  
**Puisne Judge**

**10<sup>th</sup> June 2025**

**cc:    - Fa & Company**  
**- Vijay Maharaj Lawyers**