

IN THE HIGH COURT OF FIJI AT LAUTOKA
EXERCISING CIVIL JURISDICTION

CIVIL ACTION NO. HBC 100 OF 2025

BETWEEN: TIMOTHY JOHN JOYCE, SUNFLOWER AVIATION PTE LTD, JOYCE AVIATION (FIJI) PTE LTD TRADING AS HELI TOURS FIJI, TALL PINES PTE LTD TRADING AS PACIFIC FLYING SCHOOL AND TANDEM SKYDIVE (FIJI) PTE LIMITED

PLAINTIFFS

AND: TOM WAQA

FIRST DEFENDANT

AND: CIVIL AVIATION AUTHORITY OF FIJI

SECOND DEFENDANT

AND: THE ATTORNEY GENERAL OF FIJI

THIRD DEFENDANT

BEFORE : A.M. Mohamed Mackie- J.

COUNSEL : Mr. Adish Narayan (snr) with Ms. P. Kumar- for the Plaintiffs.
 : Mr. Ashish Nand -for the 1st and 2nd Defendants.
 : Mr. S. Kant -for the interested party.

HEARING : Held on 21st May 2025 at 10.00am.

RULING : On 12th June 2025.

RULING

1. This Ruling pertains to the brief inter-parte hearing held before me on 21st May 2025 in relation to the following Orders [1] and [2] sought against the 1st and 2nd Defendants in the Summons ("the Application") filed by the Plaintiffs on 6th May 2025.

[1]. An injunctive Order to restrain the Defendants from continuing the suspension of the First named Plaintiff's Pilot's License 200928 (A) & (H) for the alleged breach of section 15 (5) (a), 123 (2) (d) & 3(d) and 128 (2) (e) ANR 1981 until the final determination of this action or further order.

[2]. An injunctive Order to restrain the Defendants from continuing the suspension of the Certificate of Airworthiness of DQ-MED pursuant to section 151(3) ANR 1981 until the final determination of this action or further order.

[3]. An injunction to restrain the Defendants by the ECC from proceeding with any hearing into the allegations of breaches in [1] and [2] above until the final determination of this action or further order.

[4]. Costs to be in the cause; and

[5]. Such further or other orders as this Honourable Court deems fit, just and expedient.

2. The Plaintiffs relied on the Affidavit of Mr Paul Hilton, Accountable Manager, sworn on 6th May 2025 and filed along with annexures marked from "PH-1" to "PH-35" in support of the of the Application.
3. The Application states that it is made pursuant to Order 29 Rule 1 of the High Court Rules 1988 and the Inherent Jurisdiction of this Court.
4. Initially, the above Application being supported before me ex-parte on 6th May 2025, after hearing the Counsel for the Plaintiffs, this Court granted only a temporary injunction order in terms of paragraph [3] above, while fixing the inter-parte hearing for the reliefs sought under paragraphs [1] and [2] above to be held on 21st May 2025.
5. Accordingly, when the matter came up for Inter-parte hearing, Counsel for the Plaintiffs moved for a Temporary Injunctive Orders to cover the reliefs sought in paragraphs [1] and [2] above, until a final Order is made after further hearing of the matter with Affidavit in opposition and Reply being filed. This Application, for Temporary Injunction orders, was vehemently objected by the Counsel for the 1st and 2nd Defendants and moved time to file their Affidavit in opposition.
6. In the meantime, the Temporary Injunction Order made initially on 6th May 2025 in terms of paragraph 3 of the Application was withdrawn as there was no necessity for the continuation of the same, and the interested party was discharged from the proceedings, both by consent.
7. Accordingly, after giving directions to file Affidavit in opposition and reply thereto and briefly hearing both Counsel, the Court reserved the Ruling on Temporary Injunction for today, which is hereby pronounced by perusing the contents of the Affidavit in Support and those of the short oral submission made by both counsels, however reserving the jurisdiction to make the final order on the Application after a full-scale hearing.
8. My task for the time being is to consider, whether temporary injunction Orders in terms of paragraphs [1] and [2] of the Summons should / could necessarily be granted as moved by the Plaintiffs' Counsel until a final order on the Application is made as stated above.
9. At this stage, I will not be going deep into the relevant Law and Principles that govern the subject. However, on careful perusal of the Affidavit in support, I do not find even a single averment therein to demonstrate that an imminent danger is to befall on the Plaintiffs, in order to warrant the immediate intervention of this Court by issuing a Temporary Injunction order.
10. Further, this Court also will have to be convinced at the future hearing, whether the order 29 Rule 1 of the High Court Rules 1988 could be resorted to interfere with the decision of the Defendants

for the suspension of the 1st Plaintiff's pilot license and the Air-worthiness of the relevant helicopters, which events, admittedly, have already taken place.

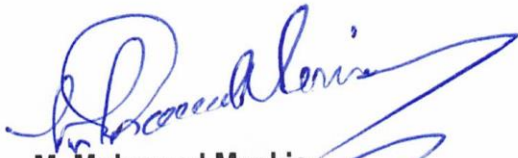
11. Accordingly, I refuse to issue a Temporary Injunction and decide to pronounce a final Ruling on the Application for Injunctive Orders, after filing of the Affidavits in opposition, Affidavit in reply and holding a hearing on it. Order on costs to be reserved.

ORDERS:

- a. The temporary injunction Orders sought pending the hearing declined.
- b. A final order on the Application will be made after perusal of the Affidavits in opposition, Affidavit in reply and further hearing on the Application.
- c. Order on costs reserved.

On this 12th Day of June 2025 at the High Court of Lautoka.




A. M. Mohamed Mackie
Judge of the High Court
High Court
Lautoka

SOLICITORS:

Messrs A.K. Lawyers- Barristers & Solicitors – for the Plaintiffs.

Messrs Munro Leys - Barristers & Solicitors- for the 1st and 2nd Defendants.

Attorney General's Chambers- for the Interested Party.