

IN THE FAMILY DIVISION OF THE HIGH COURT AT SUVA

APPELLATE JURISDICTION

CASE NUMBER:	22/SUV/0001
[ORIGINAL DVRO CASE NUMBER]:	198 of 2019
BETWEEN:	VIRAJ
AND:	HARDIK
Appearances:	<i>Ms. V. Kirti for the Appellant.</i> <i>Ms. M. Ali for the Respondent.</i>
Date/Place of Judgment:	<i>Wednesday 25 September 2024 at Suva.</i>
Judgment of:	<i>Hon. Madam Justice Anjala Wati</i>
Category:	<i>All identifying information in this ruling have been anonymized or removed and pseudonyms have been used for all persons referred to. Any similarities to any persons is purely coincidental.</i>
Anonymized Case Citation:	VIRAJ v HARDIK – Fiji Family High Court Case number: 22SUV0001

JUDGMENT

Catchwords:

FAMILY LAW –APPEAL – DOMESTIC VIOLENCE RESTRAINING ORDER – non-molestation and non-contact orders issued – non-contact orders appealed against – death of protected person after appeal hearing – should the orders be discharged as the victim is not alive to justify continuation of the orders.

Cause and Background

1. The respondent had applied for domestic violence restraining orders against the appellant. After the trial, the court granted both, the non-molestation and non-contact orders. The appellant appealed against non-contact orders.
2. The appellant is the son of the respondent. At the hearing of the application, the appellant indicated to the court below that he was only opposing non-contact orders.
3. The basis on which he opposed it was that the respondent father was living on the property owned by him and he needed to access the property. The non-contact orders, he argued was going to impede his property rights. He would be deprived of the right to enter the property to repair it as the same was in dire need for renovation.

Decision

4. The application by the respondent only includes him as the protected person.
5. The respondent died after the appeal hearing. Since he was the only person in whose favour the order was issued, I am of the finding that there is no need to deal with the appeal issues.
6. The domestic violence restraining orders need not continue as the protected person is not alive. It should be discharged as there are no living protected persons to guard against mental and physical violence.
7. There was a property dispute pending in the civil court as at the date of hearing of the appeal in this court. The discharge of the domestic violence restraining orders does not affect any other person(s) or proceeding(s).

Final Orders

8. I therefore make the following orders:-

(1) Due to the death of the protected person, the DVRO, both no-molestation and non-contact is now discharged.

(2) *There shall be no order for costs.*

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Hon. Madam Justice Anjala Wati

25.09.2024

To:

1. *Legal Aid Commission for the Appellant.*
2. *Legal Aid Commission for the Respondent.*
3. *File: Family Appeal Case Number: 01 of 2022.*