

IN THE SUPREME COURT OF FIJI (WESTERN DIVISION)

122/131

AT LAUTOKA

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Civil Jurisdiction

Action No. 450 of 1982

BETWEEN:

MOHAMMED SHAUKAT HASAN
s/o Nasir Mohammed

Plaintiff

and

LAURENCE HAMAN & ANOR.

Defendants

Mr. Sahu Khan, Counsel for the Plaintiff
Mr. A. Singh, Counsel for the Defendant

R U L I N G

The plaintiff has brought an action against the defendants as registered proprietors of an area of land comprised in LOT Nos. 7590 and 12207. He alleges that the defendants through their lawful agent one Father Foran entered into an agreement to lease the land to him for 60 years whereby he cultivated it and harvested the sugar cane on it the proceeds to be divided $\frac{2}{3}$ rds to the plaintiff and $\frac{1}{3}$ rd to the defendant. He alleges that the defendant now seeks to reposses the land, and have in fact repossessed the land terminating his right to any part of the cane proceeds.

The plaintiff now seeks an interlocutory injunction firstly to restrain the defendants from interfering with the plaintiff's right to occupy and cultivate the land; secondly to restrain the defendants from receiving the proceeds of this years cane harvest pending determination of this action, and thirdly to restrain the defendants from trespassing on the land.

The defendant opposes the application, but the affidavit opposing the application is defective. It gives no indication whatsoever of the deponents authority to speak on behalf of the defendants, and it refers to matters of belief or information without giving any basis for the same.

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The plaintiff does not live on the land, and there has been no suggestion that he has expended money on it, only his efforts to cultivate it. Apparently the servants or agents of the defendants are cultivating and harvesting the crop now. It cannot be said that the plaintiff will suffer irreparable harm if this state of affairs continues, and on balance, it seems best that the present state of affairs does continue with the defendants servants or agents continuing to cultivate and harvest the cane. The plaintiff can always be compensated for any loss - if necessary - at a later stage. But as for the cane proceeds it would be better if the defendants do not uplift all these. The defendants would, even if the case were decided in favour of the plaintiff be entitled to ~~1~~rd of the proceeds.

I therefore grant the application in respect of the second of the prayers in the application restricted though to $\frac{2}{3}$ rds of the proceeds payable by Fiji Sugar Corporation.

Costs to be costs in the cause.

LAUTOKA,
3rd September, 1982.


(G.O.L. Dyke),
JUDGE.