



**IN THE SUPREME COURT OF NAURU  
AT YAREN  
CIVIL JURISDICTION**

**Civil Suit No. 11 of 2025**

**BETWEEN : EDEN STEPHEN in his personal capacity and in a representative capacity on behalf of M. Cook family & L. Stephen family pursuant to Order 5 Rule 4(1) (a) of the Civil Procedure Rules 1972.**

**Plaintiff**

**AND : Lise Dube of unknown address in Australia**

**Defendant**

**BEFORE: Keteca J**

**DATE OF HEARING: 15<sup>th</sup> October 2025**

**DATE OF RULING: 15<sup>th</sup> October 2025**

**CITATION: Stephen v Dube**

**KEYWORDS: Interim Injunction**

**APPEARANCES:**

**COUNSEL for the**

**Plaintiff: H. Cooke**

**Defendant: No Appearance**

**RULING**

**BACKGROUND**

1. The Plaintiff filed an Ex Parte Summons under Order 25, rule 2. It should be made under Order 25, rule 1. I ordered that the Defendant be served and the matter be heard inter-partes. The Plaintiff seeks the following orders:

- i. An interim injunction restraining the Defendant, her agents and contractors from encroaching upon land outside her allocated family share of land portion 4;
  - ii. The Defendant to cease all construction activities(where?)
  - iii. The Defendant to remove all construction equipment from the land (what land?)
  - iv. The Defendant to disclose any contracts, agreements, or leases involving Land Portion 4; (this should be part of the discovery process and not an interim injunction application)
  - v. An order for a formal family meeting involving all co- owners, including the Defendant; (This is otiose here)
  - vi. General and special damages for *distress and inconvenience*; (Are these different and new heads of damages?)
  - vii. Costs.
2. The Plaintiff deposed and filed an affidavit on 08<sup>th</sup> October 2025 where he states:
- He is a co- owner of Land Portion 4, known as ‘YAEOW’ at Meneng District. The Defendant is her first cousin and they are all co- owners of Land Portion 4.
  - It was agreed by their extended families that Land Portion 4 would be subdivided into 4 equal parcels.
  - Around August 25, the Defendant commenced construction of a commercial property on Land Portion 4.
  - This construction has gone beyond the Defendant’s quarter share allocated to her family and has intruded into the Plaintiff’s and other family members’ land parcels.
  - The consent given to the Defendant from their parents was for the land to be used for residential purposes only. This consent form is defective.
  - The Defendant did not seek a meeting of all the current co- landowners to discuss the proposed developments.
  - Pending proper consultations and consensus between the Plaintiff, all the co-land owners and the Defendant, further construction should cease.

## THE LAW

3. Mr Cooke referred to *Itsimaera v Menke* [2025] NRSC; Civil Cause 01 of 2025 (21 July 2025) where I said:

[9] ‘ *In Castlemaine Tooheys Ltd v South Australia* [1986] HCA 58; (1986) ALR 553, at 557, ACJ Mason said:

*‘The principles governing the grant or refusal of interlocutory injunctions in private law litigation have been applied in public law cases, including constitutional cases, notwithstanding that different factors arise for consideration. In order to secure such an injunction the plaintiff must show (1) that there is a serious question to be tried or that the plaintiff has made out a prima facie case, in the sense that if the evidence remains as it is, there is a probability that at trial of the action the plaintiff will be entitled to relief; (2) that he will suffer irreparable injury for which damages will not be adequate compensation unless an injunction is granted; and that the balance of convenience favors the grant of an injunction.’*

[10]. *Considering the evidence and the submissions, I find that the question of the legal ownership of the disputed property on Land Portion 279, namely the property built by Clara Alefaio to be a bakery will need to be determined at trial. This raises a serious question to be tried. It flows from this that any further construction by the Defendant may lead to some irreparable damage to the Plaintiff where damages may not be adequate as a remedy.*

[11]. *I will grant the interim injunction sought but not in the terms sought in the Motion. It will not extend to the commercial or business activities currently being carried out on the property. It will be restricted to any further construction on the property.*

4. Counsel has also referred to other cases. These will be looked at when the Defendant or Counsel is heard. Counsel adds that there is a serious question to be tried here and damages is not an adequate remedy.
5. On the balance of convenience, Counsel submits that it favours the Plaintiff in this case.

### **CONSIDERATION**

6. I note that based on the papers filed, there is serious question of landownership to be determined here. The issue of consent is also relevant. From Annexure 'ES2' to the Plaintiff's affidavit, I infer that the property being constructed is not a small dwelling house. Rather, the photos show the foundation being laid for a substantial building.
7. The issue whether the Defendant has the requisite consent from other co- landowners will need to be determined.
8. The Defendant will need to be heard on this issue.
9. In the interim, I make the following Orders:
  - i. The Defendant, her agents, workers and servants are restrained from any further construction or clearing activities on the property known as Land Portion 4;
  - ii. This order is to be served on the Defendant or her husband or her agent by 10am tomorrow, 16<sup>th</sup> October 25.
  - iii. The defendant is at liberty to respond to the affidavit filed by the Plaintiff by 22<sup>nd</sup> October 25 or earlier.
  - iv. The Defendant is to file her Statement of Defence by 29<sup>th</sup> October 25.
  - v. The matter is to be called for mention before the Registrar on 06<sup>th</sup> November 25.

Dated this 15<sup>th</sup> of October 2025



Kiniviliame T. Keteca

Judge

