

IN THE LAND COURT OF TONGA  
NUKU'ALOFA REGISTRY

LA 06 of 2008

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BETWEEN : FREDERICK JOHN HETTIG - Plaintiff

AND : 1. LUDWIG W. HETTIG  
2. BARON VAEA

Defendants

BEFORE THE HON. JUSTICE ANDREW

Counsel : Mr Edwards for the Plaintiff  
Mrs Vaihu for the Defendants

Date of hearing : 16 July 2008.

Date of judgment : 17 July 2008.

**J U D G M E N T**

This matter concerns a land dispute in which the Plaintiff claims that the first defendant obtained registration of the allotment in dispute through false representation.

The Plaintiff obtained an ex parte injunction on the 13<sup>th</sup> May 2008 restraining the defendant, his servants or agents from entering or

working on the land or from evicting the plaintiff's step son from the allotment.

The Plaintiff now claims that the defendant has breached that order by entering the land and is seeking leave to apply to commit the defendants for contempt of Court.

The Defendant makes application to set aside the injunction and also makes an application for security of costs in the proceedings.

I deal first with the application to set aside the injunction.

The defendant says that he had planted 2 acres of crops on the allotment, prior to this dispute, and that the injunction means that he cannot attend to those crops and that will cause him loss and damage.

I think the point here is that the defendant is the registered owner of the allotment. I cannot determine now the rights and wrongs of whether his becoming the registered owner was through false representation. As it stands to-day, he is the registered proprietor and I do not see why he should be prohibited from entering his land. He wishes only to attend to his 3 acres of crops. He says there are 5 other acres and he is not seeking to prevent the Plaintiff or his step son from utilising that land. On balance I propose to lift the injunction or dissolve it – due to the fact that he, the defendant, is the registered proprietor. The issues of ownership are a matter for trial. The defendant will be entitled to attend to his crops.

## **ORDER**

The injunction in this matter granted on the 13<sup>th</sup> may 2008 is DISSOLVED.

[1] Security for Costs.

The defendant says that the plaintiff resides overseas. That he has no assets here and that he may be unable to pay the costs of the defendant if ordered to do so.

I am not satisfied, on balance, that the Plaintiff is not now resident in Tonga and not satisfied on balance that he would be unable to pay costs if ordered to do so.

No order for security for costs.

I think the costs of these applications should be costs in the cause.

NUKU'ALOFA: 17 July 2008.



*[Handwritten signature]*  
JUDGE