

In the High Court of Fiji at Suva
Probate Jurisdiction
HPP 12.2011
Probate No. 24475
Between
Teresa Prasad
Plaintiff
And
James Prasad Budhai
First defendant
And
Arveen Prasad Budhai
Second defendant

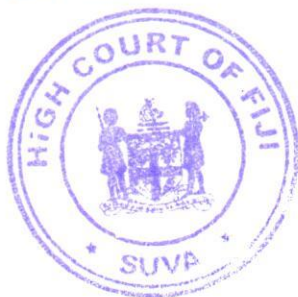
COUNSEL: Mr A. Singh for the plaintiff
Ms M. Tikosuva for the defendants
Date of hearing : 30th January, 2017
Date of Judgment: 31st March, 2017

Judgment

1. By summons filed on 22nd December, 2015, the plaintiff seeks an order for the defendants to sell and distribute the property at 493, Ratu Mara Road, Nabua, Samabula. The plaintiff and the defendants are the beneficial owners of the property. The property was part of the estate of "*Phul Kuar Budhai*". Probate was granted to the defendants jointly. The plaintiff consents to sell the property to the defendants or purchase the property herself.
2. A law clerk of the defendant's solicitors in his affidavit in reply states that probate was granted to the plaintiff on 27th February, 1989. Probate was granted the defendants on 10th June, 1999. The plaintiff has not provided accounts of rental money collected. The SCC has served the defendants with a demolition order. The defendants obtained consent orders for eviction of the tenant. The tenant has not complied with the orders. The defendants have to file writ of possession. The defendants wish to purchase the plaintiff's interest. The eviction of the tenant, the demolition of the house and security of the property, must be completed from funds held in court.
3. The plaintiff in her affidavit in reply states that the rentals were collected by her agent. The defendants have not attached receipts of SCC rates.

The determination.

4. At the hearing, Mr A. Singh, counsel for the plaintiff said that the plaintiff seeks an order for the defendants to sell the property and distribute the proceeds to the parties.
5. Ms Tikoisuva, counsel for the defendants objected to the summons. She said that the defendants are willing to purchase the property owned by the plaintiff.
6. The defendants have raised several issues on the failure of the plaintiff to provide accounts of rental monies collected, the demolition order served by the SCC and eviction of the tenant. No cross-summons has been filed seeking orders from Court in that regard..
7. The parties are not at variance that the property should be sold.
8. I would hence make order that the defendants obtain a valuation of the property within 30 days, after which the Court will give directions for the sale of the property and distribution of the proceeds less all expenses incurred by the defendants.
9. ***Orders***
 - (a) The defendants shall obtain a valuation of the property within 30 days of the date of this Judgment.
 - (b) No order as to costs.
 - (c) This matter will be called on 3rd May ,2017 at 9a.m.



A.L.B. Brito-Mutunayagam
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Judge
31st March, 2017