

In the High Court of Fiji at Suva
Civil Jurisdiction
HPP Action No. 06 of 2010
Between
Arun Kumar and Adit Kumar
Plaintiffs
And
Anoop Kumar
Defendant

COUNSEL: Mr A Singh for the plaintiff
Mr R Singh for the defendant
Date of hearing: 18th November, 2016

Judgment

1. By summons filed on 15th August, 2016, the defendant, the administrator of the estate of Surendra Prasad, moves that he pay out the beneficiaries of the estate of Surendra Prasad, the value of the land at \$5000 each.
2. The affidavit of the defendant states that he proposed that the estate be “*distributed, by (him) purchasing the Estate property*”, for which there has been no response from the plaintiff’s solicitors. He states that the plaintiffs want to be joined on the lease as owners, but he has been informed by the Office of the Director of Lands that this “*may not be possible as the plaintiffs and all other beneficiaries are overseas citizens*”. The defendant states that the Sugar Industry Tribunal has by letter of 8th June, 2016, stated that the land will not be permitted to be further subdivided .
3. The second plaintiff, in his reply of 6th September, 2016, states that the defendant’s application to pay monetary compensation in lieu of distribution is an attempt to circumvent my Judgment. He is advised that the assertion that the Director of Lands will not consent to the transmission of the estate land to the plaintiffs is incorrect, as the distribution is not a dealing under the State Lands Act. The summons to distribute by paying monetary compensation is inconsistent and in contempt with the Orders of Court.

4. The defendant in his affidavit in reply filed on 14th September, 2016, states that the first plaintiff has not filed any objections and the other beneficiaries have discontinued this action against him.
5. In my judgment, the defendant's summons fails for the following reasons. Firstly, the plaintiffs do not accept his suggestion.
6. Secondly, no cogent reason has been given by the defendant for his proposed course of action. The alleged reason that the Director of Lands said that the shares of the plaintiffs and all other beneficiaries may not be possible to be transferred since they are overseas citizens, is unsubstantiated and untenable. Thirdly, the Sugar Industry Tribunal has only said that it would not subdivide the land for a purpose other than sugar cultivation. But the land has already been sub-divided and sold by the defendant.
7. I decline the summons filed by the defendant.
8. **Orders**
 - a. The defendant's summons is declined.
 - b. The defendant shall pay the second plaintiff costs in a sum of \$ 1000 summarily assessed within 15 days of this judgment.



A.L.B. Brito-Mutunayagam

A.L.B. Brito-Mutunayagam

Judge

2nd February, 2017