

**IN THE HIGH COURT OF FIJI
AT SUVA
PROBATE JURISDICTION**

Civil Action No. HPP 36 of 2021

IN THE MATTER OF ESTATE OF FAZAL MOHAMMED

V

**IN THE MATTER OF AN APPLICATION BY KAZAMA ALI KHAN &
MOHAMMED AFIF KHAN**

COPY RECORD

**BEFORE ACTING MASTER OF THE HIGH COURT MS. V LAL
IN COURT ON 28TH JULY 2022**

Counsels: Ms. S. Begg for the Plaintiff
Not Present for the Defendant

Court:

EX-TEMPORE RULING

1. This is an application by the Applicants who wish to apply for grant of Probate for estate of Fazal Mohammed pursuant to Will dated 31st March 2015.
2. According to the Applicants there are three Executors and Trustees named in the Will of the deceased – Mohammed Aslam; Kazama Ali Khan aka Azam Ali and Mohammed Afif Khan.

The deceased died on 09th April 2015.

They have been trying to get Mohammed Aslam to take out the probate but he has not been cooperating.

Six years has lapsed since the death of the deceased and due to the negligence of the Respondent the beneficiaries are suffering.

3. Section 35 of the Succession Probate and Administration Act provides cost with power to remove executor.
4. As per the Will the two Applicants and the Defendant are appointed as executor and trustee of the Estate.
5. Instead of removing the Defendant as Executor and Trustee I find it proper to make following orders.

Orders

6. The Applicants are granted leave to apply for a grant for the estate of the deceased.
7. Grant to be issued to the applicants upon filing of requisite documents with Probate Registry.
8. Grant to be issued with power reserved for the Defendant to latter apply for the same.

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**IN THE MATTER OF FAZAL
MOHAMMED**

&

**IN THE MATTER OF AN
APPLICATION BY KAZAMA
ALI KHAN & MOHAMMED
AFIF KHAN**

APPLICANTS

**COPY RECORD FOR EX -
TEMPORE RULING**

Typed and Prepare by:



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Lusiana Biau
Secretary

**Checked with original and
certified to be true copy:**



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Ravendra Kumud [Mr]
Senior Court Officer
High Court, Suva

Date: 1/9/22
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