IN THE HIGH COURT OF FIJI AT SUVA

CIVIL JURISDICTION

Civil Action No. HBM 138 of 2026

BETWEEN: **FIJI INDEPENDENT COMMISSION AGAINST CORRUPTION**

Applicant

AND: **SANGEETA DEVI SINGH** of Lot 14 Komo Street, Samabula.

Respondent

AND: **WESTPAC BANKING CORPORATION** of 1 Thompson Street, Suva.

First Interested Party

AND: **AUSTRALIA AND NEW ZEALAND BANKING GROUP LIMITED, FIJI BRANCH (ANZ) of Renwick Road, Suva**

Second Interested Party

Before:	*Hon Acting Justice Penijamini R Lomaloma*
Counsels:	*Ms. N. Shankar & Ms. S. Khan*
Respondents:	*NP (Ex-Parte)*
Date of Hearing:	*24th September 2026*
Date of Ruling:	*28th September 2026*

RULING

Introduction

1. This is an application by way of an Ex-Parte Motion seeking a restraining order pursuant to section 19A and 19B of the Proceeds of Crime Act over the following property held in the name of the Respondent:
   a. Australia and New Zealand Banking Group Limited, Fiji Branch account number ….186, in the name of the Respondent to the extent of $79, 754.18;

b. Westpac Banking Corporation account number ……766 in the name of the Respondent to the extent of $85,681.50.

c. The Respondent and each Interested Party, whether personally or through any officer, employee, agent or other person acting on their behalf, be prohibited from withdrawing, transferring, disposing of, charging, diminishing or otherwise dealing with the property specified in paragraph 1, except as permitted by this order or by further orders of the Court.

d. The total amount restrained under the order shall not exceed $165,435.68;

e. The Applicant shall serve the sealed order and supporting papers on the Respondent and the Interested Parties promptly after the order is made;

f. Costs be reserved.

g. Such further order or orders as the Court considers just.

2. The motion is made pursuant to sections 19A-19B of the Proceeds of Crime Act 1997 and supported by an affidavit sworn by SHERINE POULINE LATA on the 22nd day of September 2026.

3. The Applicants also filed an Originating Summons seeking:

a) A DECLARATION that the property listed below is TAINTED PROPERTY, namely:

i. Australia and New Zealand Banking Group Limited, Fiji Branch account number …….186, in the Respondent's name to the extent of $79, 754.18;

ii. Westpac Banking Corporation account number …….766 in the Respondent's name to the extent of $85,681.50.

THE MATERIAL FACTS

4. I have left out the full bank details of the Respondent's bank accounts above to protect her. They will be provided in full in the sealed order.

5. The material facts are in the affidavit in support of Sherine Pouline Lata and the attachments thereto and I have summarized them here. The Respondent, Sangeeta Devi Sigh was appointed the Chief Executive Officer of the Fiji Teachers Registration Authority (FTRA) from 9th December 2019 on a salary of

$87,162.71. On 1st August 2024, she signed a new contract for a term of 5 years at a salary of $147,400.00. Her employment ended in July 2026.

6. On 8th May 2026, a complaint was lodged with FICAC from the Chairperson of the FTRA Board alleging financial and governance irregularities or unsupported payments, overseas travel payments, and governance irregularities involving the Respondent.

7. FICAC then ordered an investigation which covered the period of her employment because the Respondent had access to and dealings with the FTRA's payroll and financial systems. The application was limited only to suspected excess payroll payments presently quantified at $165,435.68. The wider allegations remain under investigation.

8. An examination of the payroll files identified payable hours attributed to the Respondent had been added or altered before the payroll information was uploaded into the CGT system. The metadata associated with relevant Microsoft Excel files identified the Respondent as the last recorded user to access or modify those files and that pay-summary records bearing her approval were then used in the payment process.

9. The deponent said that she is not relying on the metadata alone to prove who made the alteration. She said that she relied on meta data, the Respondent's role, access, approval of the pay summaries, the payroll records and the subsequent payments credited to her accounts. <u>In short, she is relying on the totality of the circumstantial evidence of capability, opportunity and motive to draw the conclusions that the Respondent's bank accounts should be frozen</u>.

<u>Reconciliation and Suspected Benefits</u>

10. The deponent compared the Respondent's authorized remuneration with the payroll and bank records obtained during the investigation. A transaction-by-transaction schedule of the disputed payments, including the underlying remuneration authority, payroll entry, payment date, receiving account and bank record was annexed as SL-4.

11. A study of SL4 showed a table with columns for the year, breakdown of the year, approved annual salary, salary expected to get, salary remitted to the Westpac/ANZ bank account and the unauthorized salary.

12. The unauthorized salary column showed that there was none for 2019, and amounts of $3,829-$5,100 between 2020 and 2022. The total for 2023 jumped to $37,400 followed by $86,731.03 for 2024 to $23,561. 73 in 2025.

13. Annexure SL-4 then showed the total unauthorized credits of $79, 754.18 at the ANZ Bank Account and $85,681.50 at Westpac Bank accounts belonging to the Respondent from 2020 to 2026. At the hearing, Counsel for the Applicant pointed to the balance of $235,027.12 standing to the account of the Respondent at ANZ Bank as at 29th June 2025 and $8,106.92 at Westpac Bank. These are historical balances and the orders sought in this application will have to be amended to be in line with the current balances of these accounts.

THE LEGAL FRAMEWORK

14. The Proceeds of Crime Act is titled, "An act to provide for pecuniary penalty of the proceeds of Crime to Deprive persons of the Proceeds, Benefits, and Properties Derived from the Commission of Serious Offences and to Assist Law Enforcement Authorities in Tracing the Proceeds, Benefits and Properties and for Related Matters." There have been several amendments to the Act including the Proceeds of Crime (Amendment) Act 2005 (No. 7 of 2005) which unfortunately is not in Paclii. I have therefore typed the full provisions of the relevant sections to help those who do not have the Lexis-Nexis Butterworths Edition of the Laws of Fiji. There are altogether 30 new sections including ss 4A, 19A—19H; 27A-27E, 30A, 70A, 70B, 71A-71M inserted to the original Act.

The General Scheme of the Act

15. To better understand the Act, we need to look at its structure. The Act is divided into 6 Parts. Each part is made up of Divisions and within each Division, there are sections.
16. The original Act had Part 2 with 2 Divisions:
    a) Division 1—GENERAL and
    b) Division 2—FORFEITURE ORDERS
17. FORFEITURE ORDERS dealt with forfeiture orders after conviction. The application for restraining order could be made under section 35 of the Act for tainted property when the defendant has been convicted of a serious offence or has been charged with a serious offence or will be charged with a serious offence within 48 hours.
18. Later, a new Division 3 of Part 2 was added and titled:

    Division 2A—CIVIL FORFEITURE ORDERS

19. A civil forfeiture order under Division 2 does not need a conviction or a charge to be already in the Criminal court or for a charge to be filed within the next 48 hours.

20. A civil forfeiture order for non-conviction-based forfeiture order for tainted property can be made by the court under Section 19E of the Act. The procedure is to start with an application for a restraining order pursuant to section 19A. Section 19B states the orders that the Court can make. Section 19C gives the power to the DPP to apply to the Court for a section 19E order.

This Application

21. The application before this Court in this case is made pursuant to Section 19A of the Act and the relevant sections of the Act are set out below:-

19A Application for a restraining order for tainted property or terrorist property

19A (1) Where there are reasonable grounds to suspect that any property is property in respect of which a forfeiture order may be made under section 19E or 19H, the Director of Public Prosecutions may apply to the Court for a restraining order under sub-section (2) against the property.

(2) An application for a restraining order may be made ex parte and shall be in writing and be accompanied by an affidavit stating—

(a) the description of the property;

(b) the location of the property in respect of which the restraining order is sought;

(c) the grounds for the belief that the property is tainted property or terrorist property for which a forfeiture order may be made under section 19E of 19H.

Restraining Orders

19B (1) Subject to this section, where the Director of Prosecutions applies to the court for a restraining order against property and the court is satisfied that there are reasonable grounds for suspecting that the property is tainted property or terrorist property for which a forfeiture order may be made under section 19E or 19F, the court may make an order—

a) Prohibiting any person from disposing of, or dealing with, the property or such part thereof or interest except in the manner specified in the order; and

b) At the request of the Director of Public Prosecutions, where the court is satisfied that the circumstances so require, that the Attorney-General take custody of the property or such part thereof and manage or otherwise deal with all or any part of the property in accordance with the directions of the Court.

(2) For the avoidance of any doubt, the court may make an order under sub-section (1) in respect of money or other property located in Fiji or elsewhere.

(3) Where the Attorney-General is given a direction under sub-section (1)(b), the Attorney-General may do anything that is reasonably necessary for preserving the property and for this purpose may exercise any power that the owner of the property could exercise and do so to the exclusion of the owner.

(4) Where the Director of Public Prosecutions applies to the Court for an order under subsection (1), a witness shall not be required to answer a question or to produce a document is the court is satisfied that answering the question or producing the document may prejudice the investigation of, or prosecution of a person for an offence.

19C Application for a non-conviction-based forfeiture order for tainted property

The Director of Public Prosecutions may apply to a court for an order forfeiting to the State all or any of the property that is tainted property.

The Standard of Proof & Burden of Proof

22. For section 19A applications, the standard of proof is that is *reasonable grounds for suspecting that the property is tainted*. The burden of proof is on the Applicant.

ANALYSIS

First Issue—Does the Commissioner of FICAC have the locus to bring this application?

23. Section 4 of the Act provides that the powers vested in the DPP by this Act are deemed to be vested in the DPP and Commissioner of FICAC and any reference to the DPP shall be construed as a reference to the DPP and the Commissioner of FICAC.
24. **Result:** Yes. The Commissioner of FICAC has the locus to bring these applications.

Second Issue—Are the properties tainted?

25. Tainted property in relation to a serious offence or a foreign serious offence is defined in section 4 to mean:
    a) Property used in, or in connection with, the commission of the offence;
    b) Property intended to be used in, or in conjunction with the commission of the offence;

c) Proceeds of crime.

26. A serious offence is one where the maximum penalty is death, or imprisonment for not less than 6 months and a fine of not less than $500.00.

27. The material facts disclose a prima facie case of Obtaining Property or a financial Advantage by Deception contrary to section 317 of the Crimes Act 2009 which provides:

> *317.— (1) A person commits a summary offence if he or she, by a deception, dishonestly obtains property belonging to another with the intention of permanently depriving the other of the property.*
>
> *Penalty — Imprisonment for 10 years*

28. The offence carries a maximum sentence of 10 years imprisonment and is therefore a serious offence and can be restrained provided the property is tainted.

29. The properties bank accounts in the name of the Respondent and the evidence shows that she obtained these funds illegally and deposited them into the accounts. The deposits were made electronically from the Respondent's pay roll to her two bank accounts totaling $79,754 in the ANZ account and $85,681 into her Westpac account. Metadata in the possession of FICAC shows a clear trail from the source of the funds to the said bank accounts. The funds were obtained illegally and are the proceeds of crime and are therefore tainted property as defined in the Act.

Conclusions on the 1st Issue

30. For the reasons given, I am satisfied that there are reasonable grounds for suspecting that the funds in the Respondent's 2 two bank accounts at ANZ Bank and Westpac Bank are tainted property and can therefore be restrained under section 19B of the Act.

3rd Issue—Should the Restraining Orders be granted?

31. I find that the orders should be granted as sought in the ex parte motion.

4th Issue—How much of the property must be restrained and for how long?

32. The statutory provisions are clear and there are only 2 or 3 decided cases in this area. A freezing order is an injunction, called a Mareva injunction. It is an equitable remedy designed to freeze the assets of the Respondent in the jurisdiction while awaiting the outcome of the substantive case. It is to prevent the Respondent from taking funds out of the jurisdiction or dissipating it in a

spending spree or transferring it to friends or family or whoever he might please within the jurisdiction.

33. In considering the quantum to be frozen or restrained, this court will seek guidance from decided cases on Mareva Injunctions.

34. In ***Polly Peck International Plc. v. Nadir and Others (no.2)(1992) 4 All ER 769 at pp785-786***, Lord Donaldson, M.R. said:

> *"I therefore turn to the principles underlying the jurisdiction.*
>
> *(1) So far as it lies in their power, the Courts will not permit the course of justice to be frustrated by a defendant taking action, the purpose of which is to render nugatory or less effective any judgment or order which the plaintiff may therefore obtain.*
>
> *(2) It is not the purpose of a Mareva injunction to prevent a defendant acting as he would have acted in the absence of a claim against him. Whilst a defendant who is a natural person can and should be enjoined from indulging in a spending spree undertakes with the intention of dissipating or reducing his assets before the day of judgment, he cannot be required to reduce his ordinary standard of living with a view to putting by sums to satisfy a judgment which may or may not be given in the future.*
>
> *Equally no defendant whether a natural or a juridical person, can be enjoined in terms which will prevent him from carrying on his business in the ordinary way or from meeting his debts or other obligations as they come due prior to judgment being given in the action.*
>
> *(3) Justice requires that defendant be free to incur and discharge obligations in respect of professional advice and assistance in resisting the plaintiff's claims.*
>
> *(4) It is not the purpose of a Mareva injunction to render the plaintiff a secured creditor, although this may be a result if the defendant offers a third party guarantee or bond in order to avoid such an injunction being imposed.*
>
> *(5) The approach called for by the decision in American Cyanamid Co. v. Ethicon Ltd [1975] UKHL 1; (1975) 1 All ER. 504, (1975) AC 396 has, as such, no application to the grant of refusal of the injunction which proceeds on principles which are quite different from those applicable to other interlocutory injunctions ."*

(formatting and underlining mine)

35. Applying the principles enunciated above, this court must take into account any income that the Respondent is receiving, her living standards; her need to get

professional advice about her case and other requirements of the Act. The balances in the tainted accounts are historical and we need to get the latest balances to determine the quantum of the restraining order.

36. Unfortunately, nothing is in evidence about the Respondents family, her dependents, any source of income, her debts and other financial obligations, her living expenses and other facts on which this court can gauge what amounts should be restrained if the order were to be granted.

Conclusions on the issue

37. I find from the discussion above that it is necessary to issue a freezing order on the two accounts immediately as requested with the limits set out in the Ex-Parte motion to stop any dissipation of funds and to obtain the balances of those accounts so I can vary the order to suit the matters discussed above if there are insufficient funds in the Respondent's accounts.

38. Secondly, the Respondent should be given one week to file an affidavit of her means, her reasonable expenses and her medium term and long-term obligations so that the court can make amend the restraining order if necessary based on evidence. This is separate from her affidavit in opposition.

39. The order is to be reviewed in 10 days.

Orders

1. The 1st Interested Party, Westpac Banking Corporation, is to freeze account number ……. 766 at their Westpac Banking Corporation in the name of Sangeeta Devi Singh, the Respondent, to the extent of $85,681.50.
2. The 2nd Interested Party, the Australia and New Zealand Banking Corporation is to freeze the Respondent's bank account No. …… 1861 at their Bank to the extent of $79, 754.18 until further orders of this Court.
3. The Respondent's bank account details are to be revealed fully only in the sealed order.

3. The Respondent and each Interested Party, whether personally or through any officer, employee, agent or other person acting on their behalf, **ARE PROHIBITED** from withdrawing, transferring, disposing of, charging, diminishing or otherwise dealing with the property specified in Orders 1 & 2, without leave of the Court.

4. The total amount restrained under the order 1 and order 2 shall not exceed $165,435.68

5. The Applicant shall serve the sealed order and supporting papers on the Respondent and the Interested Parties promptly after the order is made.

6. The Interested parties shall give to the Applicant a copy of the current balances of the Respondent's account at their respective bank immediately after they are served.

7. Costs reserved.

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Penijamini R Lomaloma

Acting Puisne Judge