**IN THE HIGH COURT OF FIJI**

**AT SUVA**

**CIVIL JURSIDICTION**

**Civil Action No. 107 of 2025**

**BETWEEN: RATU MELI LOKI TUNISAU** of Yavusa Matanikutu, Koro Tamavua, Tikina Naitasiri, Yasana Naitasiri

**1st PLAINTIFF**

**BETWEEN: RATU SAULA COLATA NADURUCOKO TUNISAU** of Yavusa Matanikutu, Koro Tamavua, Tikina Naitasiri, Yasana Naitasiri.

**2nd PLAINTIFF**

**AND: MOSESE ROKOTAKALA** of Yavusa Nayavumata, Koro Suvavou, Tikina Suva, Yasana Rewa

**3rd PLAINTIFF**

**AND:** **APENISA KALOKALO LOKI** of Yavusa Matanikutu, Koro Tamavua, Tikina Naitasiri, Yasana Naitasiri.

**1st DEFENDANT**

**AND: EPELI RAKAI** of Yavusa Matanikutu, Koro Tamavua, Tikina Naitasiri, Yasana Naitasiri.

**2nd DEFENDANT**

**AND: RONY CHAN AKA RONALD CHAN** of Tamavua – I –

Wai, Suva.

**3rd DEFENDANT**

**AND: SILVERLINING INVESTMENTS PTE LIMITED** having its

registered office at Level 1, 11 Renwick Road, Suva, Fiji  **4th DEFENDANT**

**AND: ITAUKEI LAND TRUST BOARD** a statutory body established under the iTaukei Affairs Act, Cap 120 whose principal place of business is at 431 Victoria Parade, Suva, Fiji Islands.

**5th DEFENDANT**

**AND: NATIVE LANDS COMMISSION** as a duly constituted

body under the Native Land Trust Cap 133

**6th DEFENDANT**

**AND: THE MINISTER FOR ITAUKEI AFFAIRS** of 87 Queen

Elizabeth Drive, Nasese

**7th DEFENDANT**

**AND: ATTORNEY GENERAL OF FIJI** of Level 7, Suvavou

House, Victoria Parade, Suva

**8th DEFENDANT**

**AFFIDAVIT IN SUPPORT OF THE STRIKE OUT APPLICATION**

[BY THE 1ST AND 2ND DEFENDANTS]

I, **APENISA KALOKALO LOKI** of Yavusa Matanikutu, Koro Tamavua, Tikina Naitasiri, Yasana Naitasiri, make oath and say as follows: -

1. I am the First Defendant in the present proceedings, and I make this Affidavit in Support of the Summons to Strike Out filed herein.
2. I swear this Affidavit both in my personal capacity and on behalf of the Second Defendant, who has duly authorised me to do so. **Annexed and marked “AK1” is the Letter of Authority from the Second Defendant.**
3. The matters deposed to are true to the best of my knowledge, information, and belief, save where expressly stated to be based on information and belief, in which case I verily believe them to be true

**Background:**

1. I am the duly recognised *Roko Tui Colo* and *Turaga ni Yavusa o Matanikutu*. The Native Lands Commission (“NLC”), being the statutory authority mandated to determine and recognise chiefly titles, has confirmed my entitlement to hold this position. **Annexed are copies of letters from the NLC dated 1987 (“AK2”) and 2010 (“AK3”) affirming such recognition**.
2. The land in dispute measures approximately 2.6740 hectares and is traditionally associated with the Yavusa Matanikutu and Yavusa Nayavumata. Title is jointly held by the two yavusa, which are further subdivided into eight *mataqali*.
3. The land which is the subject matter of these proceedings comprises approximately 2.6740 hectares, and is traditionally associated with both the Yavusa Matanikutu and the Yavusa Nayavumata. Title is jointly held by these yavusa, which are further divided into eight mataqali, each represented and administered in accordance with iTaukei customary law and statutory oversight by the 5th Defendant, the iTaukei Land Trust Board (“iTLTB”).
4. On or about 24 September 2021, Lease No. 1034 (TLTB No. 4/3/41729) was lawfully executed in favour of the Third Defendant. The said lease was executed after compliance with all requisite consultations, consents, and statutory procedures mandated under the iTaukei Land Trust Act 1940 (“the Act”), and was endorsed and registered with the full approval of iTLTB.
5. Contrary to the Plaintiffs’ assertions, the lease was neither fraudulent nor improperly obtained. The allegations advanced by the Plaintiffs are not only unsupported by documentary or admissible evidence, but they also directly contradict the statutory records and determinations made by competent authorities.

**Grounds for Strike-Out:**

1. I am informed by my Counsel, and verily believe the information to be true, as follows:
   1. The Plaintiffs’ claims are frivolous, vexatious, scandalous, and amount to an abuse of the Court’s process. The claims warrant immediate dismissal under Order 18 Rule 18 (b), (c) and (d) of the High Court Rules 1988, for the following reasons:
2. **Finality of Statutory Determinations**

The issues raised herein have already been conclusively determined by the competent statutory authorities, namely the iTLTB and the NLC, both of which exercised their powers lawfully under enabling statutes.

1. **Compliance with Statutory Requirements**

The lease was executed in full compliance with statutory provisions, including section 17(2) of the iTaukei Land Trust Act 1940 and the Native Lands (Miscellaneous Forms) Regulations.

1. **Prior Litigation and Res Judicata**

The allegations of fraud and lack of consent were previously raised, litigated, and dismissed in Silverlining Investments Pte Ltd v Volau [2022] FJHC 203, and subsequently in Silverlining Investments Pte Ltd v Volau, Civil Appeal No. ABU 0026 of 2022, where the Court of Appeal upheld the validity of the Agreement for Lease. **A copy of the** **Civil Appeal Judgment is annexed and marked “AK4”**.

1. **Findings of the Court of Appeal**

The Court of Appeal made clear findings that:

* iTLTB had complied with all procedural requirements under section 17(2) of the Act;
* the consent of native owners was validly obtained;
* majority consent satisfied Regulation 2 of the Native Lands (Miscellaneous Forms) Regulations; and
* subsequent administrative steps by iTLTB validated the Agreement for Lease notwithstanding its execution prior to de-reservation.

1. **Issue Estoppel and Abuse of Process**

By virtue of the doctrines of res judicata and issue estoppel, the Plaintiffs are precluded from re-litigating matters which have been finally determined. Their attempt to reopen these matters constitutes a collateral attack on final judgments.

1. **Subsequent Judicial Affirmation**

This position was reaffirmed in Silverlining Investments Pte Ltd v Peniasi Loki HBC 337 of 2024 (25 April 2025), where **Justice Laksman** expressly recognised the binding effect of the Court of Appeal’s earlier ruling. **A** **copy of the Judgement is annexed and marked “AK5”**.

1. **Ruling on Interim Injunction**

In ruling on the Plaintiffs’ application for Interim Injunction on 21 August 2025, **Justice Vishwa Datt Sharma** held that the Plaintiffs’ allegations were speculative, unsubstantiated, and contradicted by the statutory procedures followed by iTLTB. **A copy of this ruling is annexed and marked “AK6”**.

1. **Preliminary Observation**

I am further advised by my Counsel, and verily believe the same to be true, that the Plaintiffs’ primary cause of action in these proceedings is fraud. However, fraud is properly a matter for investigation and prosecution by the competent authorities such as FICAC or the Police. The Plaintiffs will suffer no prejudice if this action is struck out, as they retain full liberty to pursue their complaints before the proper authorities. It is therefore improper for unsubstantiated allegations of fraud to be litigated through collateral civil proceedings of this nature.

1. I respectfully state that the continuation of these proceedings amounts to a renewed attempt to ventilate issues which have already been conclusively determined by both the High Court and the Court of Appeal. Such conduct, in my view, constitutes an impermissible effort to challenge and undermine final judicial determinations, thereby calling into question the proper administration of justice.
2. I further say that the present action is an abuse of the process of this Honourable Court. It seeks to reopen matters that have already been fully and finally adjudicated. Instituting fresh proceedings on issues that have been conclusively settled is contrary to the principles of finality and should not be permitted.
3. In the circumstances, I respectfully submit that the only proper course available is for this Honourable Court to strike out the present proceedings. To allow them to continue would be to sanction a misuse of judicial process and to erode public confidence in the justice system. I therefore seek an order that the proceedings be dismissed with costs.

**RELIEF SOUGHT**

**WHEREFORE** in the premises, I respectfully pray that this Honourable Court:

1. Strikes out the Plaintiffs’ action against the First and Second Defendants in its entirety;
2. That the Plaintiffs pay the Defendant’s costs on an indemnity basis;
3. Grants such further or other relief as the Court deems just and equitable.

**SWORN** by the said **APENISA KALOKALO LOKI**

at Suva this day of 2025 after the contents hereof were read over and explained to him in the English Language and he appeared fully to understand the meaning and effect thereof in my presence:

**\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_**

**A COMMISSIONER FOR OATHS**

*This* ***Affidavit in Support*** *was drawn by Karunaratne Lawyers for and on behalf of the First and Second Defendants herein and whose address is 66 McGregor Road, Suva.*

**IN THE HIGH COURT OF FIJI**

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**CIVIL JURSIDICTION**

**Civil Action No. 107 of 2025**

**BETWEEN: RATU MELI**

**LOKI TUNISAU**

**1st PLAINTIFF**

**BETWEEN: RATU SAULA**

**COLATA NADURUCOKO TUNISAU**

**2nd PLAINTIFF**

**AND: MOSESE**

**ROKOTAKALA**

**3rd PLAINTIFF**

**AND: APENISA KALOKALO**

**LOKI**

**1st DEFENDANT**

**AND: EPELI RAKAI**

**2nd DEFENDANT**

**AND: RONY CHAN AKA**

**RONALD CHAN**

**3rd DEFENDANT**

**AND: SILVERLINING**

**INVESTMENTS PTE LIMITED**

**4TH DEFENDANT**

**AND: ITAUKEI LAND TRUST**

**BOARD**

**5th DEFENDANT**

**AND: NATIVE LANDS**

**COMMISSION**

**6th DEFENDANT**

**AND: THE MINISTER FOR**

**ITAUKEI AFFAIRS**

**7th DEFENDANT**

**AND: ATTORNEY GENERAL**

**OF FIJI**

**8th DEFENDANT**

**AFFIDAVIT IN SUPPORT OF THE STRIKE OUT**

**[By the 1ST and 2ND Defendants]**

**Sworn By:**

**Sworn on:**

**Filed on:**

**Behalf of: 1st and 2nd Defendants**

**\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_**

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