

**IN THE INDEPENDENT  
LEGAL SERVICES COMMISSION**

**NO. 002/2011**

**BETWEEN: CHIEF REGISTRAR**

**Applicant**

**A N D: MUHAMMAD SHAMSUD-DEAN SAHU KHAN      1<sup>st</sup> Respondent**

**Applicant                    :**      **Ms V. Lidise, Mr A. Chand & Ms M. Rakai**  
**1<sup>st</sup> Respondent            :**      **Ms N Khan**

**Date of Hearing            :**      **20<sup>th</sup> , 21<sup>st</sup> and 22<sup>nd</sup> July 2011**  
**Date of Ruling            :**      **27<sup>th</sup> September 2011**

**JUDGMENT**

**COMPLAINT**

*Professional Misconduct: Contrary to Section 82 (1) (a) of the Legal Practitioners Decree 2009*

**PARTICULARS**

*Dr. Muhammad Shams Ud- Dean Sahu Khan, a legal practitioner on the 31<sup>st</sup> day of July 2007 made a declaration in support of an application to register a judgment against CL 16375 which declaration represented that CL 16375 was not subject to any liens, leases, mortgages or encumbrances whatsoever, except Caveat No. 260056 as he was informed and verily believed, when at that time Mortgage No. 210344 had also been registered against CL 16375, which conduct involved a substantial failure to reach or maintain a reasonable standard of competence and diligence.*

1. The complaint in this matter arises from the facts detailed in Matter 002/2010.
2. The Respondent when acting for Mohammed Farouk Ali and seeking to register a judgment on CL16375 made a declaration to facilitate that judgment being registered.
3. The declaration states 4
  - "4. *I know that the said Ambika Nand (father's name Puran Nand) previously of Varoka, Ba, a businessman is the registered proprietor of the said land*



as I have caused a search of the Titles made at the Title's office.

5. *The registered estate and interest of Ambika Nand (father's name Puran Nand) previously of Varoka, Ba, a businessman in the said land is not subject to any liens, leases, mortgages or encumbrances whatsoever so far as I am informed and verily believe, except Caveat No 260056."*
4. Whilst in Matter 002/2010 it was not possible to determine when mortgage no 201344 and caveat no 260056 were registered on the title of CL16375 it was apparent that when the judgment was registered on the title on 31<sup>st</sup> July 2007 at 12.30pm the mortgage and caveat were already endorsed on the title (Paragraph 31 and 32 Matter 002/2010).
5. The Respondent in these proceedings has filed an affidavit made on the 19<sup>th</sup> July 2011 in which he says at paragraph 6 :-  
*(1) The declaration was made AFTER my office through my conveyancing clerk Anil Sharma had our agent in Suva to make a search of the Registrar of Titles Office and my clerk was informed by the agent that except for the caveat no 260056 there was no other encumbrance registered on the title. Accordingly I made the declaration based on such information given to me."*
6. Should this be true then the declaration is of no value whatsoever for any purpose.
7. Whilst this Commission is not bound by the rules of evidence it is very difficult to place much weight on the evidence of the deponent of an affidavit stating what his clerk was informed by another clerk.
8. It would seem if the declaration was to serve any useful purpose whatsoever then it should have attached to it a copy of an up to date title search evidencing the statements made in the declaration.
9. I am of the opinion that it is more likely than not that the statements made in the declaration are either untrue or were made in an extremely cavalier manner without a proper search or investigation been made. It is not possible to be satisfied on the standard of proof as is required in matters such as this that the Respondent in fact made the declaration knowing it to be false.
10. If it is that the Registrar of Titles is to continue to rely on declarations from legal practitioners to facilitate the registration of a judgment debt then I recommend that the form of declaration be amended to make it meaningful and not merely a piece of paper required to be lodged but which in reality achieves nothing.
11. For the reasons stated I cannot be satisfied that the complaint is made out and it must therefore be dismissed.

**ORDERS**

1. Complaint dismissed.

  
**JOHN CONNORS**  
**COMMISSIONER**



**27 SEPTEMBER 2011**





# INDEPENDENT LEGAL SERVICES COMMISSION

Legal Practitioners Decree 2009

Application No 002 / 2011

**APPLICANT:**

**Chief Registrar**

**RESPONDENT:**

**Muhammad Shamsud-Dean Sahu Khan**

## ORDER

It is hereby ordered:

1. Complaint dismissed.



27 SEPTEMBER 2011

  
JOHN CONNORS  
COMMISSIONER

IN THE HIGH COURT OF FIJI

No. HBI 004 of 2011

INDEPENDENT LEGAL SERVICES COMMISSION

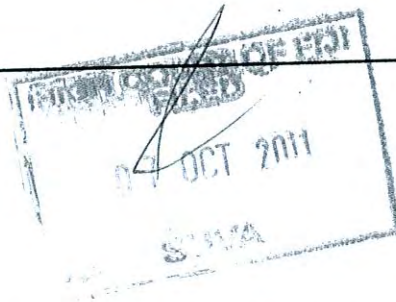
Application No. 002 of 2011

APPLICANT: CHIEF REGISTRAR

RESPONDENT: MUHAMMAD SHAMSUD-DEAN SAHU KHAN

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ORDER



INDEPENDENT LEGAL SERVICES COMMISSION  
Level 5 Civic Tower  
Victoria Parade  
SUVA





# INDEPENDENT LEGAL SERVICES COMMISSION

Legal Practitioners Decree 2009

Application No 001 / 2011

**APPLICANT:** Chief Registrar  
**RESPONDENT:** Muhammad Shamsud-Dean Sahu Khan  
Sahu Khan & Sahu Khan

## ORDER

It is hereby ordered:

### ORDERS

1. The 1<sup>st</sup> Respondent must not apply for a practising certificate for 10 years from today.
2. The 1<sup>st</sup> Respondent shall pay to the Independent Legal Services Commission for payment out witnesses expenses totally \$862.10 within 28 days.
3. The 1<sup>st</sup> Respondent shall on return to Fiji surrender his passport to the Secretary, Independent Legal Services Commission to be held until order 2 is complied with.
4. The 2<sup>nd</sup> Respondent shall cease to operate and shall not engage in legal practice.

  
JOHN CONNORS  
COMMISSIONER



27 SEPTEMBER 2011

IN THE HIGH COURT OF FIJI

No. HBI 005 of 2011

INDEPENDENT LEGAL SERVICES COMMISSION

Application No. 001 of 2011

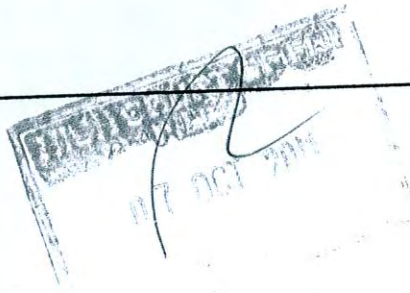
APPLICANT: CHIEF REGISTRAR

RESPONDENT: MUHAMMAD SHAMSUD-DEAN SAHU KHAN  
SAHU KHAN & SAHU KHAN

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ORDER

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INDEPENDENT LEGAL SERVICES COMMISSION  
Level 5 Civic Tower  
Victoria Parade  
SUVA