

**IN THE SUPREME COURT OF  
THE REPUBLIC OF VANUATU**  
(Civil Jurisdiction)

Civil  
Case No. 21/2057 SC/CIVL

**BETWEEN: Dunstan Tula representative of Simeon Roy  
Tula and Family**  
Claimant

**AND: John Godwin and Family  
Colton Harry and Family  
Hilary Wetak and Family  
Maxime Pierre and Family  
Philip Tula and Family  
Willington Jonas and Family  
Charles Norman and Family  
John Beret  
Lulum Noel  
Colton Marry**  
Defendants

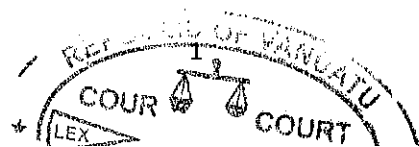
*Date:* 12 April 2022  
*Before:* Justice V.M. Trief  
*Counsel:* Claimant – Mr J. Vohor  
Defendants – in person  
Applicants – Mr P. Fiuka

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**DECISION AS TO APPLICATION TO JOIN AS A PARTY**

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1. The Claimant Dunstan Tula representing Simeon Roy Tula and Family's Claim is in trespass in relation to Lembal custom land at south Gaua island in Torba province.
2. On 15 March 2022 Jeffrey Wenel and Frazer Wemanar Families (the 'Applicants') filed and served Application to join as a party - Defendant (the 'Application') and Sworn statement of Rogartson Aris in support.
3. Counsel agreed that the Claimant would file and serve submissions in response and then the Court decide the Application on the papers.
4. Having considered the Claimant's Response to the Application (filed on 28 March 2022 and another on 30 March 2022), Submissions, Objection to the sworn statement of Rogartson Aris and Sworn statement of Danstan Tula (the Claimant), I now decide the Application.



5. The Claimant conceded in his submissions that Jeffrey Wenel and Frazer Wemanar are the custom owners of Nebleklave land, which includes Lembal land, pursuant to the Torres Island Court's decision in Land Case No. 3 of 2000 dated 24 November 2005. By the same decision, the Claimant and Family were declared to have rights of use of Lembal land.
6. By the Claimant's admission, Lembal land is part of Nebleklave land. Jeffrey Wenel and Frazer Wemanar are the declared custom owners of Nebleklave land. Given the Claimant is seeking eviction orders in relation to Lembal land, the presence as a party of the declared custom owners of that land is necessary to enable the Court to make a decision fairly and effectively in the proceeding.
7. The objections to Mr Aris' sworn statement included that he was not a party nor witness in Land Case No. 3 of 2000, that he is originally from Merelava island, is not related to the declared custom owners and that he was not adopted legally by the custom owners. Further, that the Claimant has a certificate of recorded interest of Lembal land and was given rights of use of Lembal land. All of these call for the Court to make findings of fact. I will not make findings of fact on an interlocutory application, only at trial. Accordingly, I reject the objections for the purpose of determining the Application.
8. Finally, in determining the Application, I am not concerned at all with issuing eviction orders against the Claimant as Mr Vohor's submissions seemed to suggest. I am concerned only with determining whether or not the Applicants' presence as a party is necessary to enable the court to make a decision fairly and effectively in the proceeding. For the reasons given, I consider that it is.
9. Accordingly, the Application is **granted**.
10. It is ordered that Jeffrey Wenel and Frazer Wemanar Families are joined as Second Defendants in this proceeding.
11. The Defendants are renamed "First Defendants".
12. The costs of the Application are reserved.
13. I will issue separate timetabling orders.

**DATED at Port Vila this 12<sup>th</sup> day of April 2022**  
**BY THE COURT**

  
Justice Viran Molisa Trief

