



# FIJI REPUBLIC GAZETTE

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## GOVERNMENT OF THE REPUBLIC OF FIJI DECREE NO. 35

### MAGISTRATES' COURTS (CIVIL JURISDICTION) DECREE 1988

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#### SECTION

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In exercise of the powers vested in me as President and Commander-in-Chief of the Republic of Fiji, I hereby make the following Decree—

#### *Short title*

1. This Decree may be cited as the Magistrates' Courts (Civil Jurisdiction) Decree 1988.

#### *Civil jurisdiction of magistrates*

2.—(1) A resident magistrate shall, in addition to any jurisdiction which he may have under any other Act for the time being in force, have and exercise jurisdiction in civil causes—

- (a) (i) in all personal suits arising out of any accident in which any vehicle is involved where the amount, value or damages claimed, whether as a balance claimed or otherwise, is not more than fifteen thousand dollars;
- (ii) in all other personal suits, whether arising from contract, or from tort, or from both, where the value of the property or the debt, amount or damage claimed whether as a balance claimed or otherwise, is not more than fifteen thousand dollars;
- (b) (i) in all suits between landlords and tenants for possession of any land (including any building or part thereof) claimed under any agreement or refused to be delivered up, where the annual value or annual rent does not or did not exceed two thousand dollars;
- (ii) in all suits involving trespass to land or for the recovery of land (including any building or part thereof) irrespective of its value, where no relationship of landlord and tenant has at any time existed between any of the parties to the suit in respect of the land or any part of the land (including any building or part thereof);
- (c) in any type of suit covered by paragraphs (a) and (b) whatever the value, amount, debt, damages sought to be recovered is, or whatever the annual value or annual rent is, if all the parties or their respective barristers and solicitors consent thereto in writing:

Provided that where any such suit has already been commenced in the High Court it may only be transferred to a resident magistrate's court with the prior consent of the High Court;

- (d) to issue writs of habeas corpus for the production before the court of any person alleged upon oath to be wrongfully imprisoned and detained, and to make orders thereon;
- (e) to appoint guardians of infants, and to make orders for the custody of infants;
- (f) to grant in any suit instituted in the court injunctions or orders to stay waste or alienation or for the detention and preservation of any property the subject of such suit, or to restrain torts or breaches of contracts;

- (g) to enforce by attachment any order made by the court;
- (h) to commit to prison for a term not exceeding six weeks, or until payment of the sum due, any person who makes default in payment of any debt or instalment of any debt due from him, in pursuance of any order or judgment of the court or any other competent court:

Provided that such jurisdiction shall only be exercised where it is proved, to the satisfaction of the Court, that the person making default either has, or has had since the date of the order or judgment, the means to pay the sum in respect of which he has made default, and has refused or neglected or refuses or neglects to pay the same.

For the purposes of this paragraph, any court may direct any debt due from any person, in pursuance of any order or judgment of that or of any other competent court, to be paid by instalments, and may, from time to time, rescind or vary such order.

The expression "competent court" in this paragraph shall include the High Court;

- (i) in all other suits or actions in respect of which jurisdiction is given to a resident magistrates' court by this Act or any other written law:

Provided that a magistrates' court shall not exercise jurisdiction—

- (i) in suits wherein the title to any right, duty or office is in question; or
- (ii) in suits wherein the validity of any will or other testamentary writing or of any bequest or limitation under any will or settlement is in question; or
- (iii) in suits wherein the legitimacy of any person is in question; or
- (iv) except as specifically provided in the Matrimonial Causes Act or any other Act for the time being in force, in suits wherein the validity or dissolution of any marriage is in question; or
- (iv) in any action for malicious prosecution, libel, slander, seduction or breach of promise of marriage.

(2) Second and third class magistrates shall have and exercise jurisdiction in civil cases similar in all respects to that set out in paragraphs (a), (g) and (h) of subsection (1) save that such jurisdiction shall in any cause or matter be limited to \$1,000 in the case of a second class magistrate and to \$200 in the case of a third class magistrate.

(3) Where in any action the debt or demand consists of a balance not exceeding fifteen thousand dollars, twelve thousand dollars, one thousand dollars or two hundred dollars, as the case may be, after an admitted set-off of any debt or demand claimed or recoverable by the defendant from the plaintiff, a magistrate shall have jurisdiction and power to hear and determine such action within the limits of his personal jurisdiction and power.

*Section 16 of Magistrates' Courts Act repealed*

3. The provisions of section 16 of the Magistrates' Courts Act are hereby repealed and replaced by the immediately preceding provisions of this Decree.

*Cases in the High Court to be remitted to the Magistrates Court for hearing*

4. Civil cases already instituted in the High Court with respect to which jurisdiction is vested in the Magistrate's Court by reason of this Decree may be remitted under an order of a Judge of the High Court to the Magistrate's Court for hearing and determination provided the parties consent thereto.

*Coming into force*

5. The provisions of this Decree shall be deemed to have come into force on the first day of January 1988.

Dated this 12th day of July 1988.

PENAIK K. GANILAU  
President and Commander-in-Chief