

1948
NEW ZEALAND

**REPORT AND RECOMMENDATION ON PETITION No. 30 OF 1944, OF
HIKIHANA HAMANA AND OTHERS, CONCERNING THE DIVISION
OF THE SHARES AWARDED TO THE AMARU FAMILY IN THE
MANGATU Nos. 1 AND 4 BLOCKS**

Presented to Parliament in Pursuance of the Provisions of Section 13 of the Maori Purposes Act, 1944

Maori Land Court (Chief Judge's Office),
P.O. Box 3006, Wellington C. 1, 15th July, 1948.

Memorandum for the Right Hon. the MINISTER OF MAORI AFFAIRS.

MANGATU NOS. 1 AND 4 BLOCKS

PURSUANT to section 13 of the Maori Purposes Act, 1944, I transmit the report of the Court on the claims and allegations contained in petition No. 30 of 1944, of Hikihana Hamana and others, concerning the division of shares awarded to the Amaru family in Mangatu Nos. 1 and 4 Blocks.

The substance of the petitioners' claim is that their mother, Riria Hamana, was entitled to be included as an owner, that she was wrongfully omitted from the title, and they seek to have her included as an owner.

The Court has reported, after a full investigation, that in its opinion the petitioners have not at any time established that their mother, Riria, was entitled to be included as an owner in Mangatu No. 1 or No. 4 Blocks as claimed by the petition, and I recommend that no further action be taken in respect of the claims and allegations in the petition.

D. G. B. MORISON, Chief Judge.

In the Maori Land Court of New Zealand (Tairāwhiti District).—In the matter of the Maori Land Act, 1931, and of section 13 of the Maori Purposes Act, 1944; and in the matter of the land known as Mangatu Nos. 1 and 4 Blocks and of a petition, No. 30, of Hikihana Hamana and others, referred to the Court for inquiry and report.

At a sitting of the Court held at Gisborne on the 11th, 15th, and 16th days of March, 1948, before David Gordon Bruce Morison, Esquire, Chief Judge, and Ivor Prichard, Esquire, Judge.

The Court reports that :—

The petitioners, and persons adversely affected by the claims of the petitioners, were represented before the Court.

In 1881 the Maori Land Court investigated the title to the Mangatu Block, a large block containing approximately 160,000 acres. On this investigation the block was subdivided into several portions, including Mangatu No. 1, containing approximately

100,000 acres, and Mangatu No. 4, containing approximately 6,000 acres. The order on investigation for Mangatu No. 1 was made in the names of twelve trustees, and the names of the persons claimed to be the beneficial owners were recorded in the minute-book. An order was made for Mangatu No. 4 in which the names of the beneficial owners were set out.

By the Mangatu No. 1 Empowering Act, 1893, it was declared that the persons set out in the Schedule to the Act and the successors according to Maori custom of those who had died since the 30th April, 1881, were the owners of Mangatu No. 1. The persons set out in the Schedule appear to be the persons whose names were recorded in the minute-book in 1881.

In 1917, as a result of a petition to Parliament, the Maori Land Court was empowered to inquire and determine what members of the Whanau-a-Taupara Hapu were entitled to be declared to be Maori owners of the Mangatu No. 1 Block and the Mangatu No. 4 Block in addition to the owners declared by the Mangatu No. 1 Empowering Act, 1893, and as to the Mangatu No. 4 Block in addition to the owners set out in the order of 1881.

Proceedings upon this inquiry extended from 1918 to 1922 before the Maori Land Court and the Maori Appellate Court. In these proceedings the Court first of all determined that certain persons of the Whanau-a-Taupara were entitled to be included as owners in Mangatu Nos. 1 and 4. The Court then determined the total number of shares which the original owners as a group, and these new owners as a group, should be entitled to respectively. The Court then proceeded to allot the relative shares to the individual owners within each group.

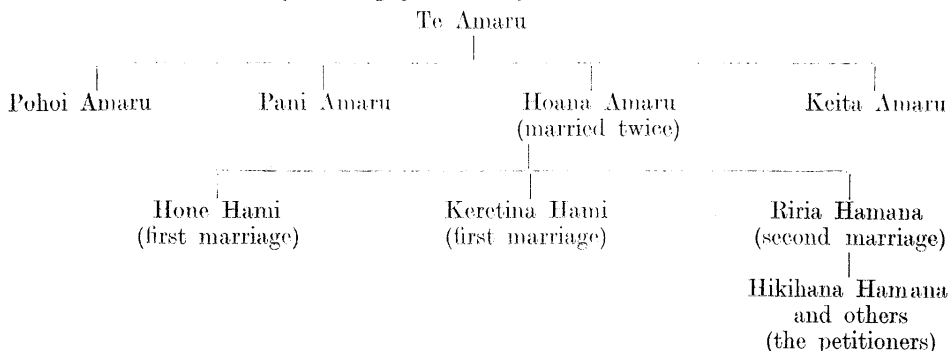
Early in the proceedings a representative committee was formed to settle the lists of owners for submission to the Court, the operations of the committee extended over a lengthy period, and the evidence before this Court showed that persons claiming to be admitted had an opportunity of presenting their claims to the committee.

The claims under these various lists were in due course put before the Court; the Court adopted the usual practice of hearing argument for and objections, if any, against the various lists before giving its decision.

There were appeals against the Court's decision on some of the lists, and when these had been disposed of, the owners and their relative shares became finally determined in the year 1922.

The substance of the petitioners' claim is that their mother, Riria Hamana, was entitled to be included as an owner, that she was wrongfully omitted from the title, and they ask that a Court of appellate jurisdiction be empowered to right the wrong by including her in the title.

The immediate family whakapapa of the petitioners is as follows:—



Te Amaru and his four children shown above were included as owners in 1881. In the final order of 1922, Hone Hami and Keretina Hami were also included as owners under the Whanau-a-Taupara claim, but neither Riria Hamana nor her children were

included. It is clear from the 1918 to 1922 proceedings that, as these proceedings were regarded as a continuation of the 1881 investigation, only those persons who were shown to have been born prior to the 1881 investigation were entitled to be included.

In 1918 a list was submitted to the Court by Captain Pitt of those persons to be included as owners under the Taupara claim. The names of Riria Hamana and her half-brother and sister shown above were included in this list as originally drawn up, but Riria's name appears to have been deleted before the list was submitted to the Court.

It appears that when this list was passed as to owners in 1918, no objection was made to the Court as to the exclusion of Riria, but in 1922, when the relative shares were being determined and the lists were being finally passed by the Court, Henare Hamana, the husband of Riria, objected to her exclusion. His objection was, however, disallowed by the Court. We find it difficult to believe that the Court took this course without hearing and considering the objection as is suggested by the petitioners. We are satisfied that the reason for the exclusion was that Riria Hamana was not shown to have been born before the investigation in 1881.

The petitioners endeavoured to prove before this Court that she was born prior to the 1881 proceedings, which commenced on 18th March, 1881, and submitted the following as proof:—

- (1) The fact that Riria was shown as being five years of age in a succession order made on 3rd March, 1886, in respect of Te Amaru, deceased.
- (2) Her marriage certificate dated 27th September, 1898, in which she was shown as being eighteen years of age.
- (3) Evidence of Henare Hamana, her husband, as to her birth.

We consider that the husband's evidence can be dismissed, as he did not even know where his wife was born.

The age stated in the marriage certificate is unreliable as a proof of exact age, particularly in a Maori marriage certificate of those times.

The succession order shows that Riria was approximately five years old on the 3rd March, 1886. Against this is the fact that she was definitely excluded because she was found not to have been born before the proceedings in 1881, whereas her brother and sister, having been born before the proceedings, were admitted. The reason for her exclusion was known to Henare Hamana when he made his objection in 1922.

It is thus apparent that Riria was born about the time of the 1881 sittings, but to be included it was necessary for her to prove that she was born before then. The matter was considered by the general committee in 1918, which was apparently a representative one and one which dealt with the many claims as fairly as it could; that committee determined that the name should be excluded, on the ground that she was not born in time. It was an easier matter to prove the exact time of Riria's birth then than it is now, and it is evident that Henare Hamana failed to satisfy the committee or the Court on the question.

This Court considers that the petitioners have not at any time established that their mother, Riria, was entitled to be included as an owner in Mangatu No. 1 or No. 4, and is of the opinion that the prayer of the petition should not be granted.

For the Court,

D. G. B. MORISON, Chief Judge.

IVOR PRICHARD, Judge.

To the Chief Judge, Maori Land Court, Wellington.

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