

In the Native Land Court, Auckland District.

In the matter of succession order made at Mercer on the 10th day of November, 1883, by the Native Land Court presided over by Judge Williams, appointing successors to the interest of Honatana, deceased, in Te Akau Block, otherwise called Allotment No. 3 of the Parish of Putataka.

APPLICATION is hereby made to His Honour the Chief Judge, under section 39 of the Native Land Court Act, 1894, and under the Land Titles Protection Act, 1908, or otherwise howsoever, for and order amending and varying the aforesaid succession order, and remedying the same as the nature of the case requires, and as he may deem it necessary or expedient in the interests of equity and justice so to do, upon, *inter alia*, the following grounds, that is to say:—

1. The successors appointed by the Court were: (1) Karoraina Kahukoka (f.) (an alleged cousin), 1 share; (2) Hohapata Kautewi (m.), dead, 1 share; and (3) Ramari Karuwhero (f.), alive, 1 share.

2. The only evidence given was that of Karoraina Kahukoka's son, a highly interested party, who applied on applicant's behalf, and alleged that he was present when Honatana was dying, and his evidence then proceeds: "It was his (Honatana's) desire that his interest in the land should devolve upon the persons I have named (*viz.*, the three who were appointed successors). He spoke in the presence of many of us, myself being amongst the number. There was no written record of that wish, but we, who are his own people, were all present. Kororaina would be the cousin of the deceased, the other two are nephew and niece. Himself had no children."

3. On this evidence the succession order was made as applied for.

4. No *whakapapa* seems to have been consulted, nor was any allusion made to applicant's father's hereditary claim, or, indeed, to his existence.

5. Applicant's *whakapapa* or table of descent is hereto annexed (A). From this it will be seen that applicant's father, Ngaweke, was entitled to two-fourths of Honatana's land and his cousins, Hohapata Kautewi (m.) and Ramari Karuwhero (f.), to one-fourth each. Applicant denies that Karoraina Kahukoka has any valid claim.

6. Honatana died 18th June, 1876, but no succession order was made until 10th November, 1883, at Mercer.

7. Applicant's father, Ngaweke, was then living at Whatiwhatihoe, in the King-country, where he died early in 1884, leaving the applicant, his only child, then a few months old.

8. Applicant, by reason of his own extreme youth, his father's death, and his own absence from Te Akau, was unaware and quite unable to appear before Court and maintain his rights.

9. He and the members of the Ngatimata Tribe, of Waikawau, have always considered that he was successor to one-half of his ancestor Honatana's land. Moreover, Pepa Kirkwood obtained a full list of owners' names, amongst which was the applicant's name, in connection with certain proposed leases. And the applicant had no reason to believe otherwise than that his rights had been duly regarded and protected in the Native Land Court.

10. Applicant had of his own right been grazing some seventy head of cattle on his land at Waikawau in 1907 and 1908, and it was not until certain intended lessees drove his cattle off portion of such land that he had had his title questioned. He still has horses grazing on other parts of the land at Waikawau.

11. Applicant has ample evidence to prove the facts and merits of his claim, and to meet and disprove the evidence given at the hearing of the said succession application. In particular, Ramari Karuwhero (f.), surviving successor, supports his claim. The applicant denies that Wiremu Hoete was present when Honatana was dying, or that Honatana desired his land should devolve as alleged.

12. Applicant only yesterday consulted a solicitor and ascertained what orders had been made.

13. From these, it is clear that the applicant's branch has been omitted from succession to Honatana's land, and that he has thereby been prejudicially affected. Instead of having about 1,300 acres in his own right in Te Akau A Nos. 12, 13A and B, and 14A and B, he has, according to the present orders, not a square inch. There have been no alienations registered in respect of the said land.

14. As the Court, by its order, expressly states that "the deceased died without having made any valid disposition" of his lands, it follows that had the Court been duly and fully informed of the applicant's relationship, his branch would not have been omitted, as it was omitted, from the succession.

I, Ngaweke Tuhimata, of Waiuku, the only child of Ngaweke, do now, without delay, hereby make application that, the consent of His Excellency the Governor in Council being first had and obtained hereto, the said order of this honourable Court be so rectified, amended, and varied as to allow of my receiving the full share of Honatana's lands and hereditaments to which I am rightfully entitled, and that the shares of Hohapata Kautewi and Ramari Karuwhero be reduced accordingly.

Dated at Auckland this 14th day of September, 1909.

NGAWEKE TUHIMATA.

I, Ngaweke Tuhimata, of Waiuku, in New Zealand, male aboriginal Native, make oath and say: That so much of the foregoing application as relates to my own acts and deeds is true, and that so much thereof as relates to the acts, deeds, and defaults of any other person I believe to be true.

Sworn at Auckland, by the said Ngaweke Tuhimata, this 14th day of September, 1909, before me, and I hereby certify that the said Native has a knowledge of the English language sufficient to enable him to understand, and that he does understand, the effect of the foregoing application and affidavit.—J. G. Haddon, Solicitor, Auckland.

NGAWEKE TUHIMATA.