

1910.
NEW ZEALAND.

THE LAND TITLES PROTECTION ACT, 1908

(APPLICATIONS FOR THE ISSUE OF ORDERS IN COUNCIL UNDER).

Presented to both Houses of the General Assembly in compliance with Section 4 of the Land Titles Protection Act, 1908.

The Land Titles Protection Act, 1908.

APPLICATION FOR THE ISSUE OF AN ORDER IN COUNCIL.

In the matter of Hutt, Section 19, and Reinvestigation of Title.

Waiwhetu, Lower Hutt, Wellington, 22nd September, 1909.

The Under-Secretary, Native Department, Wellington.

I HEREBY apply for an Order in Council authorising the Native Land Court to reinvestigate the title to Hutt, Section 19, on the grounds that a number of the original owners were left out of the orders on partition and a number of fresh names were inserted therein. In a deed dated the 30th day of August, 1847, the title to the block was vested in Horopapera Whakaruru and twenty-four others, but when the partition was made only three of these original owners were included as owners and several new names were inserted in the partition orders.

It was only the other day that I was able to find the deed of the 30th August, 1847, or I should have applied before to have the title reopened.

I have the honour to be, sir, your obedient servant,

taku

MOHI X KARENA

tohu

(By his agent, EDWARD BUCKLE, 18 Grey Street, Wellington).

Witness to mark—E. R. Broughton, Clerk N.L. Court, Wellington. 10/9/9.

Application lapsed owing to Land Titles Protection Act, 1908, being repealed by Native Land Act, 1909.

In the matter of the Native Land Court Act, 1894, and of the Land Titles Protection Act, 1908, and in the matter of Te Akau Block.

APPLICATION is hereby humbly made to His Excellency the Governor in Council for consent to apply in writing to the Chief Judge of the Native Land Court of New Zealand, at Auckland, under the provisions of the Native Land Court Act, 1894, section 39, or otherwise, for correction, amendment, and variation of a certain succession order made on the 10th November, 1883, by Edward Marsh Williams, Esquire, Judge, at Mercer, appointing Karoraina Kahukoka, Hohapata Kautewi, and Ramari Karu-whereo as successors to his ancestor, Honatana, which order omitted applicant and his father entirely from succession, although rightfully entitled to two-fourths of the said Kohanatana's interest in Te Akau Block.

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

NGAWEKE TUHIMATA

(By his solicitors, G. W. BASLEY, p. B. H. WYMAN).

Address—Swanson Street, Auckland.

1—G. 2.

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.

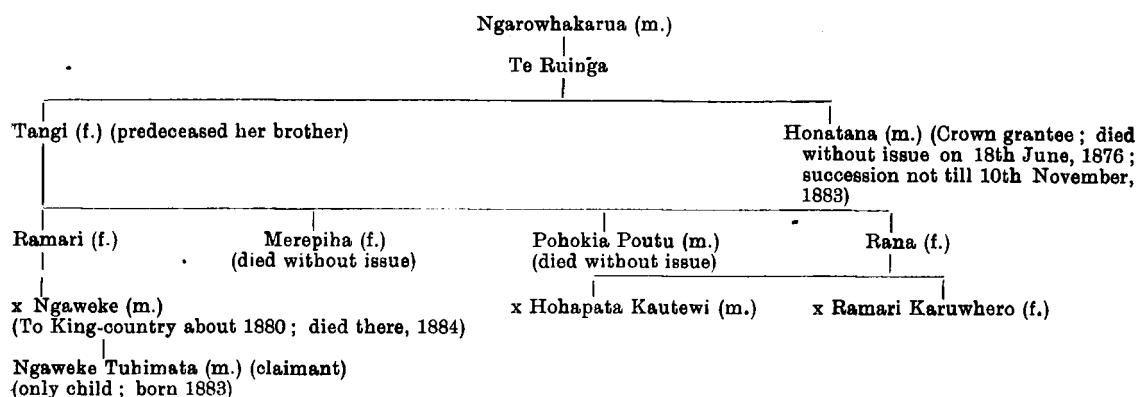
Dated at Auckland this 14th day of September, 1909.

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.



Succession to Honatana's land was granted to—(1) Karoraina Kahukoka, 1 share; (2) Hohapata Kautewi, 1 share; (3) Ramari Karuwhero, 1 share.

The Court found there was no will, and so the applicant claims that his branch was overlooked, and that his father, Ngaweke, was exactly in the same degree of kinship as Hohapata Kautewi and Ramari Karuwhero, should have succeeded to two-fourths, and they to one-fourth each, and that Karoraina Kahukoka should get nothing.

Ramari Karuwhero, now living, supports applicant's contention, though by so doing she is acting against her own interest as defined by the succession order now in question.

J. G. HADDON.

Application granted. Order in Council issued, dated the 17th day of January, 1910.

[Extract from *New Zealand Gazette*, 27th January, 1910.]

The Land Titles Protection Act, 1908.—Consenting to an Application to the Chief Judge of the Native Land Court in pursuance of Section 39 of the Native Land Court Act, 1894.

PLUNKET, Governor.

ORDER IN COUNCIL.

At the Government Buildings, at Wellington, this seventeenth day of January, 1910.

Present :

THE RIGHT HONOURABLE SIR J. G. WARD, K.C.M.G., PRESIDING IN COUNCIL.

WHEREAS by an order of the Native Land Court made the tenth day of November, one thousand eight hundred and eighty-three, purporting to determine the successors to the share or interest of Honatana, deceased, in the land known as Te Akau Block, certain persons were declared to be the successors to the said share or interest :

And whereas it has been alleged that the said order was made through an error, mistake, or omission within the meaning of section thirty-nine of the Native Land Court Act, 1894 :

And whereas an application has been made to His Excellency the Governor in Council to consent to the making of an application to the Chief Judge of the Native Land Court, in pursuance of the provisions of section thirty-nine of the Native Land Court Act, 1894, to amend the said order for the purpose of rectifying the said alleged error, mistake, or omission :

And whereas on inquiry, held in pursuance of the provisions of the Land Titles Protection Act, 1908, it appears that a *prima facie* case has been established, and that it would be inexpedient to dispose of it by remedial legislation, or by any other procedure which would obviate litigation :

Now, therefore, His Excellency the Governor of the Dominion of New Zealand, in pursuance of all powers and authorities in that behalf vested in him by the Land Titles Protection Act, 1908, or otherwise howsoever, and acting by and with the advice and consent of the Executive Council of the said Dominion, doth hereby consent to the making of an application to the Chief Judge of the Native Land Court, in pursuance of the provisions of the said section thirty-nine of the Native Land Court Act, 1894, for the purpose of rectifying the said alleged error, mistake, or omission, and the said order of the said Court, and any subsequent orders or instruments of title issued pursuant thereto, may be subject of an order of the Chief Judge under the said section thirty-nine of the Native Land Court Act, 1894.

J. F. ANDREWS,

Clerk of the Executive Council.

The Native Land Court Act, 1894, and its Amendments.

To His Honour, the Chief Judge, Native Land Court, Wellington.

THE undersigned do hereby apply under the provisions of section 39 of the Native Land Court Act, 1894, to have the names of John Hetit, Nikora, Hauparoa, Rangihaimata, and all the owners of Otorohanga No. 4 Block included in the title to the Tapuaehounuku Block, containing 4,768 acres, and situate in Blocks XIII and XIV, Pirongia Survey District, on the following grounds : The Tapuaehounuku Block was originally part of the Otorohanga Block, which was investigated by Judge Mair, in conjunc-

tion with Orahiri Block, at Otorohanga Block, in 1888. A number of the divisions of the Otorohanga Block were completed by the Court at Otorohanga, and the balance of the divisions, including Tapuaehounuku, were adjourned to Kawhia for hearing on the 2nd January, 1889. During the hearing—as to subdivision some of the Native owners intimated that they wished to cut off a piece for Tawhiao, and on the 15th February, 1889, two or three owners appeared in Court at Kawhia, and applied to have a portion—namely, Tapuaehounuku, the boundaries of which were set out by Matapehe—set aside for Tawhiao. On the 18th February, 1889, Matapehe handed in the name of Tawhiao Potatau as sole owner of Tapuaehounuku. An order was subsequently drawn up and signed, and dated the 15th February, 1889.

The applicants contend,—

1. That no order was finally made by the Court, the entry in the minute-book simply stating, “Tawhiao’s name handed in and read out to Court.” There is no note of objectors being called nor any note that the order was made.

2. That it was not intended to award Tawhiao the whole Block of 4,780 acres, and the owners who appeared before the Court at Kawhia had no authority to agree to any such award. It was intended to allot him only 500 to 1,000 acres.

3. That the balance of the block, after cutting out 500 to 1,000 acres for Tawhiao, should have been awarded to the owners of Otorohanga No. 4, which adjoins Tapuaehounuku, and to whom the land really belonged.

The applicants were not aware until recently that the order had been finally made.

The applicants therefore claim to be entitled to shares in the said block, and hereby make application that the said order of this honourable Court be amended accordingly.

Dated the 9th October, 1909.

Application declined.

JOHN HETIT and Others

(By their Solicitors, EARL and KENT).

(Translation.)

Mangonui, , 1909.

Mr. Jackson Palmer, Chief Judge, Native Land Court.

FRIEND,—Greetings. I hereby apply, under section 39 of the Act of 1894, for a reinvestigation by the Court which will disclose the error of a decision given by the Court on the 9th October, 1869, in awarding to Wiremu Hopiona the interest of my father, Ngatawa Panakauere, *alias* Pene Karauri, in the land known as the Mangataiore Block.

The said Wiremu Hopiona is not next-of-kin to deceased; on the contrary, he is entirely an outsider; whereas I am the actual and only son of Ngatawa (the deceased). Ngatawa married Ramari, and I, Huirama Ngatawa, am their child.

I was very young when my father (Ngatawa) died; then Wiremu Hopiona applied for and was awarded the interest of Ngatawa (in this land).

When I became matured I applied to be appointed successor to my father in the Mangataiore Block. I made application in the years 1888, 1890, 1891, and 1892.

On the 22nd June, 1892, my applications were considered by the Court, and, as it was found that the interest had already been awarded to Wiremu Hopiona, the Court struck out my applications. As I was at that time ignorant of the provisions of the law, I neglected to follow the matter any further. To-day, however, I have been advised to proceed further in this way. I therefore now apply under the provisions of section 39 of the Act of 1894.

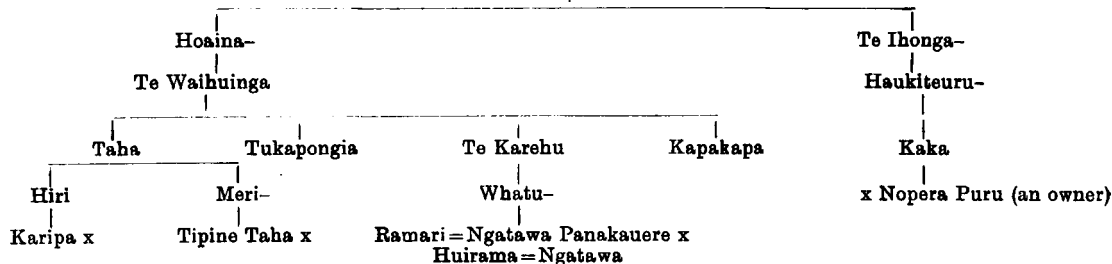
Enough. From your friend

HUIRAMA NGATAWA.

Witness.—A. McKay, J.P., Storekeeper, Mangonui.

GENEALOGY.

Huarere—



FRIEND,—You are to understand that the above is the genealogy of some of the owners of the Mangataiore Block. Of those you will notice the four marked with a cross. All these owners are succeeded by their own children, except Ngatawa Panakauere.

Application refused.

SIR,—

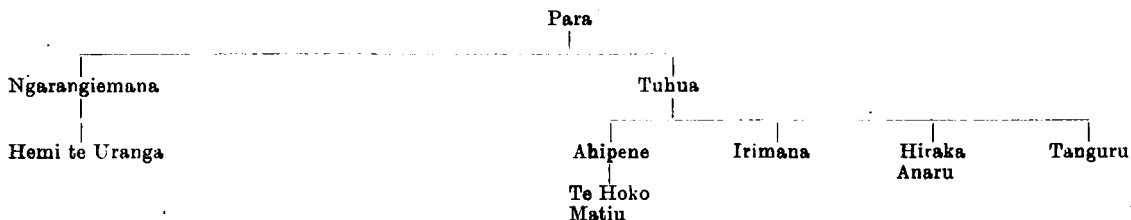
Hastings, Hawke's Bay, 21st March, 1910.

Hemi te Urunga, deceased.

I have been instructed to bring before you the following facts :—

On or about the 30th August, 1898, Hemi te Urunga died, and on the 10th December, following the N.L. Court, sitting at Hastings, made succession orders in favour of Anaru Tuhua and Tanguru Tuhua affecting Whiti-a-tara and Rakautatahi No. 3B.

That there was a grave injustice done is clear from the following genealogy :—



Irimana is dead, but Te Hoko and Matiu (the children of Ahipene) are living, and they were entitled to be in found as successors in the same way as Anaru and Tanguru.

The Land Titles Protection Act seems to bar the way to redress, but I trust the authorities will agree that this is a case in which the Governor in Council may make an Order exempting it from the provisions of that Act. I would, therefore, respectfully ask that this matter may be brought to the notice of the Hon. the Native Minister, and that you be so good as to inform me as to whether the authorities are likely to grant my request. I am acting for the two Natives who claim redress.

I have the honour to be, sir, your obedient servant,

DAVID SCANNELL.

The Under-Secretary, Native Department, Wellington.

Application came to hand too late to allow of consideration before the 31st March, 1910, on which date the Land Titles Protection Act, 1908, was repealed by the Native Land Act, 1909.

DEAR SIR,—

Hastings, Hawke's Bay, 21st March, 1910.

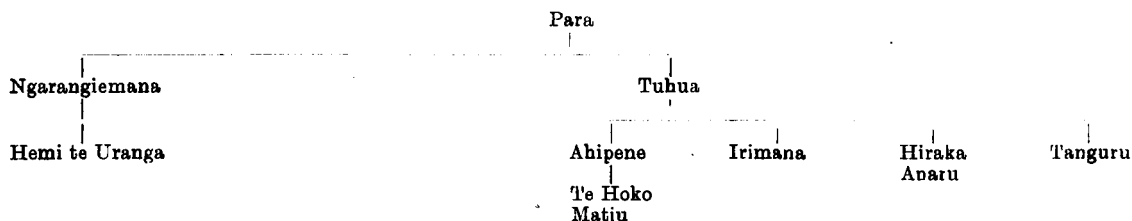
Hemi Ngarangiemana, deceased.

On the 24th March, 1899, the N.L. Court, sitting at Hastings, granted succession to this deceased to Anaru Tuhua and Tanguru Tuhua, as tenants in common in equal shares in respect of the interest of the deceased in Kaimotumotu East No. 4 (minute-book, Napier, 46, page 78).

The applicant was Tanguru Tuhua, and there does not appear from the minute taken by the Judge to have been any contest or any other evidence taken than that of the applicant, who, as you will see, was appointed one of the successors.

The existence of Te Hoko and Matiu—niece and nephew of Tanguru Tuhua—seems to have been entirely overlooked, and they now ask for redress. Apparently the Land Titles Protection Act, 1908, bars the way, unless an Order in Council be granted exempting the case from the provisions of that Act, and my clients—Te Hoko and Matiu—instruct me to apply for such Order in Council.

The genealogy below shows that there can be no question as to the justice of my clients' claim :—



Hemi te Urunga appears to have predeceased Ngarangiemana. The oversight appears to have taken place also in the case of Hemi te Urunga's succession, and in yet another case, which being within the ten years I am in communication with the Chief Judge about.

Yours faithfully,

The Under-Secretary, Native Department, Wellington.

DAVID SCANNELL.

Application came to hand too late to allow of consideration before the 31st March, 1910, on which date the Land Titles Protection Act, 1908, was repealed by the Native Land Act, 1909.

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