

The area in question is about $4\frac{1}{2}$ acres, being one-fourth of the whole section. No claim was made by the next-of-kin till 1908, when an application to succeed Harete Toko Hohaia, deceased, was put in by Hoani Maaka Hape.

On 16th January, 1909, the Native Land Court awarded the land to the following: Taituha Hape, three-quarter share; Waata Momo, one-twelfth share; Retimana Momo, one-twelfth share; Tini Momo, one-twelfth share. On appeal this order was cancelled, and the matter referred back to the Native Land Court, with directions to ascertain the next-of-kin through the father of deceased, Tauauwhara.

Before the Commission, Waata Momo, mentioned above, stated that, although he had been present when the Native Land Court made the above order, and although he had not appealed, or even raised the question, yet he had been adopted by the deceased, and so was entitled to succeed. He further stated that, owing to his adoption by Harete, his father had left him out of his will. I gathered from this that, while he would not have raised the question of his adoption to defeat Taituha, yet, if succession was to be granted to the other party, he intended to claim under that adoption.

Those opposing the validation of the will point out that of the £100 costs and probate duty paid on account of Harete Hohaia's estate only about one-twelfth can rightly be charged as against this section. Also, that the house referred to had only been built about eight years or so—that is, after the question as to whether these restrictions prevented disposition by will had been raised, and after the Native Land Court had commenced to regard them as barring such dispositions; that the lease referred to will expire on 1st May, 1912, and that it has never been confirmed; that Taituha Hape has Section 119, containing $14\frac{1}{2}$ acres, in his own right, and that his wife has lands; that for fifteen years he has been in receipt of rents and profits rightfully belonging to them; that lands outside the Kaiapoi Reserve pass by the said will to Taituha Hape, or members of his family, and that consequently all his services to the deceased, or payments made on account of her estate by him, have been amply rewarded or satisfied.

In my opinion, this is a case for compromise. In Section 26 Harete Hohaia died possessed of 3 acres 3 roods given by her will in same way as this section. I suggest the will be validated as to this Section 16, but not as to Section 26. In Section 44 Harete had a small interest (about 2 acres), which will should not affect either.

KAIAPOI SECTION 23.

Title: Crown grant, under the Crown Grants Act, 1862 (No. 2).

Area: 14 acres 2 roods 27 perches.

Restrictions prevent disposition by will.

Grantee: Te Haeana Huri.

Succession order, dated 14th September, 1883, sets out that Te Haeana Huri, having died intestate, and without having made a valid disposal of the said land or any part thereof, it was ordered that the following should succeed: Oriwia Tinako, Mehetapere Ihaia, and Hikana Matena.

From page 225 of South Island Minute-book 1B I take the following copy of Oriwia Tinako's (the only witness) evidence: "I knew Te Haeana Huri, the owner of Kaiapoi No. 23. He is dead. Did not sell. Left a will [produced a document which merely appointed deceased Native Assessor]. Ripene Waipapa wrote a document which was dictated by deceased. Ripene is dead. I was present when the document was written. I heard deceased dictate it. [Will, not signed, dated 4th March, 1867, produced.] I wish an order in favour of self, Mehetapere Ihaia, and Hikana Matena." No objections. Order in favour of the three.

In October, 1910, an application for rehearing of this succession was put in by Rewi I. te Hui Kirini and others under section 50 of the Native Land Act, 1909. The Chief Judge dismissed the application, upon the ground that the relief claimed was forbidden by section 432 of the Native Land Act, 1909, but on the file placed a note ordering matter to be brought before Kaiapoi Reserve Commission. Mr. Bishop, solicitor for those opposing the validation of the wills, withdrew opposition in this case, as order specially set out that it was made on intestacy.

Title as it stands should not be interfered with.

SECTION 28.

Title: Grant under the Crown Grants Act, 1862 (No. 2).

Area: 13 acres 3 roods 35 perches.

Restrictions prevent disposition by will.

Grantee: Horopapera Momo.

On 8th January, 1887, Retimana Momo was appointed successor to Horopapera Momo, in terms of will. Deceased had left three children—Retimana, Waata, and Tini—but as Retimana subsequently died leaving no issue, all this section has now been awarded to Waata Momo and the descendants of Tini Momo.

The title is therefore correct, and the order above-mentioned is protected by section 432 of the Native Land Act, 1909.

SECTIONS 31 AND 104.

Title: Grants under the Crown Grants Act, 1862 (No. 2).

Areas: 14 acres 1 rood 15 perches and 14 acres 2 roods 30 perches respectively.

Restrictions in both cases prevent disposition by will.

Grantee of Section 31: Henare Korako. Grantee of Section 104: Mikaera Turangatahi.

As Mikaera Turangatahi, by succession order dated 13th September, 1883, succeeds to Henare Korako, these two sections both have same owners, and are dealt with as one in this report. Mikaera Turangatahi died on 14th March, 1892, leaving a will dated 19th September, 1891. This will devised