

SECTION 80.

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

Area : 14 acres and 22 perches.

Restrictions prevent disposition by will.

Grantee : Paora Tua.

Paora Tua died in 1878, leaving no issue. On 15th October, 1885, a succession order was made in favour of deceased's widow, Ritea Paora or Kerepango. Minute-book 2, page 4A, shows order was made in pursuance of will, though form of order is that used on an intestacy.

There has never been any appeal, with the exception of an application made in October, 1910, under section 50 of the Native Land Act, 1909. Order being protected under section 432 of that Act, the application was dismissed.

Ritea Paora died 17th June, 1887, and successors to her were appointed by order dated 9th October, 1893.

I think the first order should not be interfered with after this lapse of time.

SECTION 81.

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

Area : 14 acres and 17 perches.

Restrictions prevent disposition by will.

Grantee : Irai Tihau.

Irai Tihau died 12th September, 1891. A will prepared by Canon Stack had been executed by him in 1887, probate whereof was granted by the Native Land Court on the 15th February, 1892, to George Peter Mutu, the executor named in the will. The probate specially excepts the Mikonui Reserve, for which orders had already been made, the executor stating in his evidence (Minute-book 8A, folio 16) this will cannot affect that land. Testator left no issue.

This Section 81, Kaiapoi, was by the will devised to Ruita Toitoti Mutu, but rent derived therefrom was to be paid to Pirihihi Tihau during her lifetime.

File shows that there was a certain amount of objection to the granting of probate, but the objection was not pressed before Court. Pirihihi Tihau was testator's widow.

Pirihihi Tihau took the rents during her lifetime. She died six or seven years ago, and successors, under an order dated 12th June, 1899, then went into possession.

This succession order was appealed against by Teoti Wira Tamaherangi, and on 3rd November, 1908, the Native Appellate Court varied the order, and awarded this section to Teoti Wira Tamaherangi and Hariata Whakatau Morere in equal shares.

James Judson, the lessee, at first paid rents to the life-tenant, Pirihihi Tihau, and afterwards to the successors found by the Appellate Court, he having held rents whilst appeal was pending.

It therefore appears that Ruita Toitoti Mutu has never been in possession under the will, though the life-tenant was; that the successors, after appealing, have established their title, and are now in receipt of the rents.

Probate was granted as far back as 1892, and there is no doubt both Court and parties considered that this section passed by the will. This belief was acted upon, the life-tenant going into possession. On the other hand, it is clear that since death of Pirihihi Tihau those claiming as successors have held the property, and that Ruita Toitoti Mutu has not.

I do not think title of the successors should be disturbed, but it seems to me a hard case, inasmuch as if Ruita Toitoti Mutu had been depending on an order definitely dealing with this section, instead of upon a probate (which no doubt the Natives considered to be the same as a definite order), her title would have been protected.

SECTION 85.

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

Area : 14 acres 1 rood 7 perches.

Restrictions prevent disposition by will.

Grantee : Poihipi te Orahui.

Poihipi te Orahui, otherwise known as Poihipi te Hua, died on 22nd September, 1904, leaving a will (prepared by Canon Stack) dated 22nd July, 1897. Letters of administration, with will annexed, were granted by the Native Land Court on 12th September, 1905. As showing that the Court did not consider will passed this section, a succession order for interest of testator was made by the same Judge two days later. An appeal lodged was subsequently withdrawn.

This section and other lands were devised to the wife of testator, Ria Matiria Kaurera te Hua. She has since died, leaving one son, but not by the grantee Poihipi. The persons entitled under the succession order are in receipt of the rents. Succession orders were also made for Bush Parcel 163, but as restrictions do not prevent disposition by will I will deal with that separately.

As regards this section, will should not be validated.

SECTION 86.

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

Area : 14 acres 2 roods 4 perches.

Restrictions prevent disposition by will.

Grantee : Te Manihera te Apehu.

Succession order, dated 2nd November, 1885, in terms of will, in favour of Pene Parekuku and Manahi Iri.