

Land Court file should stand. He maintained that question as to the effect of these restrictions had been raised by the decided cases *Mutu v. Public Trustee* (1892) and *Mahupuku v. A.M.P. Society*, and that Native Land Court had been guided by those cases in excepting this section from the operation of the letters of administration.

As successors have been in possession under an absolutely correct title for seven years, I do not think will of Ruera Irikapua should be validated so far as this section is concerned.

SECTION 71.

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

Area : 15 acres.

Restrictions prevent disposition by will.

Grantee : Wiremu Pukupukia.

Following successors to grantee were appointed : Eruera Irikapua, Pirihiira te Ruapohue, Riria Koeko, Poihipi te Aorahui.

Succession to Riria Koeko, deceased, on 14th September, 1897, to Poihipi te Hua.

Pirihiira te Ruapohue died 11th August, 1895. Left a will, and application for probate was put in, but apparently never proceeded with. Succession order was made 10th June, 1899, in favour of Poihipi te Hua, Meretini Irikapua, Matiria te Hua, Ruera Irikapua. Meretini Irikapua at the hearing informed Court, "I do not know if she (Pirihiira) made a will; this land is restricted."

Eruera Irikapua died 16th September, 1903. Letters of administration, with will annexed, granted to Meretini Irikapua on 25th April, 1904; noted on same, "Excepting Kaiapoi Section 11 and Wairewa No. 887"; but this Section 71 was not specially mentioned in will. By will it appears that Section 71 was to go to Meretini Irikapua, though it is not quite clear.

On 18th October, 1904, a succession order for Eruera Irikapua's interest was made in favour of Meretini Irikapua and Matiria te Hua.

Poihipi te Hua, otherwise Poihipi te Aorahui, died 2nd September, 1904. By his will he left his interest in this section to his wife, Ria Matiria Kaurera te Hua. Probate was granted 12th September, 1905, at a time when the validity of these wills had been before the Supreme Court in *Uru v. Te Rangi*.

Succession order was made to Poihipi's interest on 12th September, 1905 (the same day that probate was granted), in favour of Meretini Irikapua and Matiria te Hua. Meretini Irikapua has since died, and successors have been appointed.

Mr. Bishop pointed out that unless section specially mentioned in will, Judge granting probate would not be put on his guard to except it from operation; that question as to what lands would pass under will were not decided at time probate granted, and could not be so decided, as whole of deceased's lands would not be known or titles thereto be before the Court.

Meretini could scarcely ask for validation of Ruera's will in view of her knowledge in 1899 that land was restricted.

It is clear probate of Poihipi te Hua's will was deemed not to affect this title, as a succession order was made same day.

Wills of Pirihiira te Ruapohue, Eruera (or Ruera) Irikapua, and Poihipi te Hua should not, in my opinion, be validated.

SECTION 100.

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

Area : 7 acres 2 roods.

Restrictions prevent disposition by will.

Grantee : Ihaka te Apu.

Succession order dated 18th October, 1886, appointing following successor to grantee : Mata Kara, widow of deceased. Grantee had left no issue; no will.

Mata Kara died in 1892, leaving a will devising this section to Pene Tahui. Probate was granted 26th July, 1893, by Native Land Court. No exception noted thereon. Devisee paid debts, funeral and testamentary expenses of deceased. Will only deals with this one section, and Pene Tahui was in possession till 12th January, 1909—sixteen years.

A succession order to interest of Mata Kara was made on 12th January, 1909, in favour of Katherine Rennell, Whareraki Mason, Tiemi te Rangi, Ruiha te Haukorako. Successors have endeavoured to get the tenant to pay rent to them. Will was registered against deeds title.

On the application for succession to Mata Kara coming before Court Pene Tahui claimed as her foster-child, but Native Land Court decided against him (Vol. 16, folio 94), and in favour of very distant relatives of Mata Kara.

The Court suggested that four of these relatives should be selected for inclusion in the order, and parties agreed.

I think in this case the will of Mata Kara should be validated, as successors are distant relatives. Pene Tahui has been in undisturbed possession for sixteen years; he had always lived with the testatrix, and looked after her, and was looked on by her as her natural successor.

SECTION 103.

Grant under the Native Reserves Titles Grant Empowering Act, 1886.

Area : 16 acres.

Restrictions : Inalienable by sale or mortgage or by lease for a longer period than twenty-one years.

Grantee : Hakopa Tohuanuku.