

1920.  
NEW ZEALAND.

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NATIVE LAND AMENDMENT AND NATIVE LAND CLAIMS  
ADJUSTMENT ACT, 1919.

REPORT AND RECOMMENDATION OF PETITION No. 336/1919, RELATIVE TO THE IDENTITY OF THE PERSON TO WHOM THE NAME OF "TERE KEETI" IN THE TITLE TO POKURU BLOCK BELONGS.

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*Presented to both Houses of the General Assembly in pursuance of Section 34 of the Native Land Amendment and Native Land Claims Adjustment Act, 1919.*

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Chief Judge's Office, Wellington, 20th May, 1920.

*Re Pokuru—Petition 336 of 1919.*

I FORWARD herewith report on above matter, and beg to make the following recommendation:—

That legislation be passed authorizing and empowering the Native Land Court to inquire and determine as to whom the name "Tere Keeti" in the title to the Pokuru Block belongs, and to make order accordingly; and thereupon the Court (and the District Land Registrar, as far as necessary) may make all consequential amendments in any order or title affecting the said block which may seem to require amendment. Provided always that if the Court should find that the person in the title is not the same person as signed Memorandum of Lease No. 4333, such lease shall notwithstanding, during its currency, be deemed to have been signed by the proper person, but the rents and profits regarding that share shall enure to the person in whose favour the Court declares, in such manner and from such date as the Court shall order.

R. N. JONES, Chief Judge.

The Hon. Native Minister, Wellington.

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In the Native Land Court of New Zealand, Waikato-Maniapoto District.—In the matter of section 34 of the Native Land Amendment and Native Land Claims Adjustment Act, 1919, and of a reference by the Chief Judge to the Native Land Court for inquiry and report as to the list of owners of Pokuru Block (Petition No. 336 of 1919).

THE matter having come on for hearing before Robert Noble Jones, Judge, on the 28th January, 1920, the Court submits the following report:—

1. The petition claims that the name "Tere Keeti" in the title belongs to Henare Waitere Keeti, called "Tere Keeti," a male.
2. Although due notice was given, no one appeared to question this, but it is evident from the records that one Mere Tori Keeti claimed the share as hers.
3. The title to the block was investigated about the 8th June, 1889.
4. At subsequent dates lists of names were handed in, and one containing the name of Tere Keeti, and showing that person to be a minor, was submitted, passed on the 16th November, and finally passed on the 20th November, 1889. This list contained no particulars as to ages and sexes of the persons whose names were submitted.
5. As far as this Court can ascertain this order was never completed, but in the engrossment prepared for signature Tere Keeti is described as "f., 15." which means that the person named was a female fifteen years of age.
6. The Court is unable to find from what source these and similar particulars were obtained, but it is quite evident that they are in some cases faulty.
7. On the 25th May, 1889, the block was partitioned into Sections A to N, and the relative interests of the owners defined. In the engrossment of these orders the name "Tere Keeti, f., 15,"

appears, but owing to an application for rehearing the orders were never completed. In the minute-book of these proceedings there appears to be an attempt to change the name "Tere" to "Tori," but no reason for this is given in the book.

8. About June, 1895, the rehearing took place and the orders varied. In the engrossments of these orders, which appear never to have been completed, there appears the name of "Tere Keeti, f., 17," as an owner of Pokuru No. 3.

9. In the meantime, about the 26th November, 1894, Hori Keeti applied under section 39 of the Native Land Court Act, 1894, for the admission of six of his children into the title, and was apparently then under the impression that his daughter Mere Tori Keeti was already included. The application was abandoned, and at the applicant's request dismissed.

10. The Pokuru No. 3 Block was further partitioned on the 30th March, 1901, into Blocks A to N. Tere Keeti appears, with six others, as owners of 3G. This is apparently the first time any order was completed, and the order was sent on for inclusion in the Land Transfer title.

11. By lease No. 4333, and bearing date the 1st March, 1910, Tere Keeti and three others purported to lease their interests as from the 14th December, 1908, to one Kate Tanner, and by transfer the lease became vested in Hugh Ramsey subject to various dealings.

12. On the 5th February, 1911, on an application for partition, a question was raised as to the identity of Tere Keeti in the title, and on the 6th February, 1911, the Court gave the following decision:—

[Copy from Mercer 15, page 68.]

"POKURU No. 3G.

"*Decision re Name of Tere Keeti.*

"After perusing the records of the Court relative to this block I am of opinion that the name 'Tere Keeti' is intended to refer to Meri Tori Keeti. My opinion is principally based on the fact that although a Native may err with regard to the age of a child it is very seldom a mistake is made regarding the sex. The Tere Keeti shown in the manuscript list handed in at the investigation of the title is a female. I am further strengthened in my opinion by the fact that in 1894 Hori Keeti made application under sections 39/94 to the Court to include his *other* children in the title to the block. His application, which is supported by affidavit, states that *two* of his children are already included. It is admitted that Pahata is one of them, and the question as to who is the other naturally arises. The only name that is applicable to the other child is that of Tere Keeti—the name in dispute. Order will be amended by adding to the name 'Tere Keeti' the alias 'Mere Tori Hori Keeti.'"

13. No order appears to have been amended, but in a subsequent succession order dated the 24th May, 1911, and in a partition order for 3G 2 dated the 20th November, 1911, the owner is described as "Mere Tori Hori Keeti *alias* Tere Keeti," and in the last named order the interests of Tere Keeti and Mere Tori Hori Keeti, as successor, have been combined.

14. Notwithstanding the finding of the 6th of February, 1911, this Court has formed a definite conclusion that the name "Tere Keeti" refers to Henare Waitere Keeti, the male child of Hone Keeti, and not to Mere Tori Keeti, the female child of Hori Keeti. The reasons for coming to this conclusion are that Hone Keeti and his family were living on the land, while his brother Hori and his family were not. All the other living children of Hone were included. There is no valid reason why Tere, his then youngest male child, should be omitted, and when his name is found in the title it is logical to assume he was not omitted. It is admitted that many of Hori's children were omitted; and when there is a person answering to the name of "Tere Keeti," even though he described as a female and there is no female answering to that name, the presumption is that the person who bears the name must be intended. This Court has not been able to find any manuscript list in which the person named was described as a female, although there is one which puts him down as a minor. No doubt the sexes and ages appear in the engrossed order, but that might easily have been a mistake of the clerk in gathering the information and filling in the description and ages. It is admitted that the age as stated is not that of Tere Keeti; yet if that age is attached to Mere Tori Keeti she must have been one of twins, which she was not. It is quite probable that in 1894 Hori Keeti thought two of his children were in the list, but he was equally certain that all of Hone's were in it, which would not be the case if Tere Keeti is excluded.

15. Henare Waitere, or Tere Keeti, denies that he signed the lease referred to, while Mere Tori Keeti—giving evidence as "Tere Keeti"—claimed that she had received rents, so that it is only fair to assume that the signature "Tere Keeti" on the lease has been affixed by her on the assumption she is the person named.

16. The fact of this alienation to the European makes it extremely difficult for the Native Land Court to deal with the matter by way of rectification, and the fact that there have been dealings by the lessee might make it equally difficult for the Supreme Court to equitably adjust the matter.

Dated this 20th day of May, 1920.

For the Court.

R. N. JONES, Judge.

The Chief Judge, Native Land Court, Wellington.

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