

SESSION I.
1921.
NEW ZEALAND.

NATIVE LAND AMENDMENT AND NATIVE LAND CLAIMS ADJUSTMENT ACT, 1920.

REPORT AND RECOMMENDATION ON PETITION No. 75/1919, RELATIVE TO APPOINTMENT
OF SUCCESSORS TO TARAHUIA NAHONA IN KINOHAKU EAST No. 2 No. 9 BLOCK.

*Presented to both Houses of the General Assembly in pursuance of Section 32 of the Native Land
Amendment and Native Land Claims Adjustment Act, 1920.*

Chief Judge's Office, Rotorua, 21st February, 1921.

Re *Tarahuia Nahona (deceased)*.—Petition 75/1919.

PURSUANT to section 32 of the Native Land Laws Amendment and Native Land Claims Adjustment Act, 1920, I forward herewith report of the Native Land Court regarding above petition.

The report presumes that Parliament is aware of many things not stated in detail. I think it proper, therefore, to restate a few of the facts.

An application to succeed the deceased was lodged on the 19th March, 1914, and, after contention, finally disposed of on the 23rd July, 1915, by an order in favour of Hinewai Tarahuia, who, as well as being the widow of deceased, was held to be his next-of-kin entitled to succeed. The losing parties allege an appeal was lodged within due time, but, being returned by the Registrar for the necessary fee, became lost. Later, other blocks, claimed for under similar rights, were applied for, and a similar decision was asked for, with the object of testing its correctness by appeal. The result was that other successors have been found entitled, and, as the report says, "The right is exactly the same in this case as that decided by the Appellate Court," and *prima facie* the petitioners are entitled to have that case reheard. But in the meantime the successor has alienated the interest derived by succession, and a confirmation certificate was finally endorsed on the 14th August, 1920. The consideration of £1,102 2s. 2d. now lies with the Board, but is liable to be paid out at any time to the successor, Hinewai Tarahuia.

Unless the money remains with the Board it seems useless to pass any legislation with regard to it. If it should remain with the Board I would recommend that legislation be passed to the effect that, notwithstanding the order of the Native Land Court of the 23rd July, 1915, granting succession to Hinewai Tarahuia in respect of the interest of Tarahuia Nahona (deceased) in the Kinohaku East No. 2 Section 9 Block, the proceeds of the sale of such interest, now held by the Waikato-Maniapoto Maori Land Board, shall be deemed to be the property of the persons who would be rightfully entitled to succeed if such succession order had not been made, to be ascertained by the Native Land Court; jurisdiction being conferred for such purpose, with authority to the said Court to make, in any order made by it, such special allowance (if any) as it sees fit to Hinewai Tarahuia in respect of any debts, liabilities, funeral, or tangi expenses paid by her on behalf of or out of respect to the deceased, Tarahuia Nahona.

Hon. Native Minister, Wellington.

R. M. JONES, Chief Judge.

Waikato-Maniapoto Native Land Court, Auckland, 5th February, 1921.

The Chief Judge, Native Land Court, Wellington.

REFERENCE by you under section 32 of the Native Land Laws Amendment and Native Land Claims Adjustment Act, 1920, for inquiry and report as to petition No. 75/1919, by Mere to Rongo and others, in regard to the succession to interest of Tarahuia Nahona (deceased) in Kinohaku East No. 2, Section 9.

This came before me at Te Kuiti on the 17th January, 1921. Pepene Eketone represented the petitioners, while Hinewai Tarahuia appeared in person.

Under the circumstances I saw no objection to my making a report, though I had previously given a decision in other interests of the deceased. Neither side had anything further to say. The last word on the subject was said long ago, and I do not know why a report by the Court was considered necessary, as everything is fully on record already.

The facts are:—

Application to succeed to Tarahuia Nahona (Holland, J.) on the 20th June, 1914, in Kinohaku East No. 2, Section 9. Adjourned. (Ot. 56/242 *et seq.*)

Case resumed. (Ot. 57/281 *et seq.*)

Judgment of Native Land Court in favour of Hinewai Tarahuia. (Ot. 57/297.)

This judgment was not appealed against—or, at all events, not appealed against in time. (Ot. 59/15.)

On the 8th November, 1916, certain other interests of deceased came before the Native Land Court (Holland, J.). The Court made similar orders to that made on the former occasion. (Ot. 59/15, 16; Ot. 59/83A.)

These four orders appealed against.

The Appellate Court referred the case back to Native Land Court. (Ad. App. Ct. M. Ak. 11/18.)

I reheard on the 6th March, 1918. Decision which really sets out all the material facts. (Ot. 60/75; Ot. 60/105.)

Orders of Native Land Court. (Ot. 60/144.)

Hinewai Tarahuia appealed against these orders.

The Appellate Court dismissed the appeals and affirmed the orders. (Ak. App. Ct. M.B. 11/88–90.)

The petitioners now desire to have the order in Kinohaku East No. 2, Section 9, made in 1914, which they neglected to appeal against, set aside so that they may claim the interest.

The issue being solely one of *whakapapa* and not of *take*, the right is exactly the same in this case as in those decided by the Appellate Court. Hinewai Tarahuia herself is entitled to one-sixth share under the affirmed orders. The question is whether the petitioners ought to be relieved from the consequences of their own neglect, which has involved the widow in considerable expense. There is this also to consider: The land in question has been sold and the purchase-money is lying in the hands of the Maori Land Board. It is therefore now *personalty*, and I should think the Board could not hold it if Hinewai Tarahuia issued a writ. And no succession order would pass it now.

If any legislation be introduced it would be only equitable to preserve the widow's rights under section 140/09, now lost by lapse of time, especially as I understand she bore all the expenses of the funeral and tangi.

CHAS. E. MACCORMICK, Judge.

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