

1922.

NEW ZEALAND.

NATIVE LAND AMENDMENT AND NATIVE LAND CLAIMS ADJUSTMENT ACT, 1921-22.

REPORT AND RECOMMENDATION ON PETITIONS Nos. 300/1920 AND 19/1921, RELATIVE TO SUCCESSION TO INTERESTS OF HARAWIRA HEPERI (OR PIKIRANGI) IN AWARUA 4A 3C 4C AND OTHER BLOCKS.

Presented to Parliament in pursuance of Section 35 of the Native Land Amendment and Native Land Claims Adjustment Act, 1921-22.

Native Department, Wellington, 8th September, 1922.

Harawira Heperi (deceased).—Petitions No. 300 of 1920 and No. 19 of 1921, by Hera Wharawhara.

PURSUANT to section 35 of the Native Land Amendment and Native Land Claims Adjustment Act, 1921-22, I forward the report of the Court herein.

The report does not set out how the orders complained of came to be made, but, briefly, they arose out of what purported to be a family arrangement entered into on the 16th January, 1913, between the next-of-kin of deceased, which was adopted by the Native Land Court as a basis on which to found its orders. Hera Wharawhara claims that she alone, as the only true adopted child of deceased, was in fact entitled to the estate of deceased, although not represented in the proceedings. The matter came twice before the Supreme Court, once on the question of the power of the Native Land Court to make orders to carry out such an arrangement, and later to have the proceedings reopened on the ground that Hera Wharawhara was not a party to them. The Court in its present report expresses the opinion that Hera Wharawhara was the rightful sole successor of the deceased. If correct, the parties who made the family arrangement were not empowered to do so.

I recommend that legislation be passed empowering the Native Land Court to rehear the application upon which orders were made on the 17th January, 1913, in respect of the succession to Harawira Heperi (or Pikirangi) (deceased) as to his interest in the following lands—viz., Awarua 4A 3C 4C, Awarua 4A 3C 4E, Awarua 3D 3 No. 9, Oruamatua, Kaimanawa 3B, and Motukawa 2D 3B—and an application upon which an order was made on the 16th January, 1918, in respect of his interest in the Tokaanu B Block; with power to the Court to cancel, vary, or amend any of such orders, and to make any new or other order, as it shall see fit.

2. That the present successors shall, pending the rehearing being granted, be prohibited from dealing with the realty and personalty of the deceased.

3. No such amendment to take away or effect any right or interest acquired in good faith and for value before the passing of the Act, but any alienation theretofore made, together with the unpaid proceeds (if any), to enure for the benefit of the proper successors as found by the Court.

4. All payments heretofore made in the faith of any order made affecting the estate of the said Harawira Heperi shall be deemed to be validated.

5. Notwithstanding any former order of the Court, the Court shall have power to make any order it considers just in respect of any sum of money held by the Board on behalf of the estate of the said Harawira Heperi (deceased), and may determine what person or persons are entitled thereto. If any such person should be a minor, the payment of such minor's share may be directed to be made to the Native Trustee on behalf of such minor.

The Hon. Native Minister, Wellington.

R. N. JONES, Chief Judge.

Office of the Aotea District Native Land Court, Wanganui, 18th August, 1922.

Memorandum for the Chief Judge, Native Land Court, Wellington.

Re *Harawira Heperi (deceased)*.—*Report of the Native Land Court upon the Application of the Chief Judge to inquire into the Allegations in Petitions Nos. 300 of 1920 and 19 of 1921, by Hera Wharawhara, praying for a Rehearing of certain Applications for Succession, re Harawira Heperi (deceased).*

I BEG to report as follows:—

1. The matter came on for hearing at Wanganui on Wednesday, the 7th June, 1922, Mr G. Hutchison, solicitor, appearing for Hera Wharawhara, the petitioner. The Court had issued notices on the 1st May, 1922, advising Mr. H. D. Bennett, Messrs. Arrowsmith and Loughman, and Morehu Downs that the case would come on at Wanganui on the 7th June, 1922. Further notices were issued on the 16th May, 1922, to the above parties, and also to Kingi Topia and others, but no one except Mr. Hutchison turned up.

2. After hearing Mr. Hutchison the Court adjourned the case to Tokaanu, as most of the next-of-kin were resident there. The case came on at Tokaanu on the 15th June, 1922, when many of the principal next-of-kin were present in person. Mr. Hampson, solicitor, Rotorua, also appeared on their behalf, and admitted that the Court had no option but to report in favour of the petitioner. Mr. Hampson said he might have to contest the matter on points of law before the Native Affairs Committee of the House.

3. The Court, having heard all parties whom it considered should be heard, now begs to recommend—

- (a.) That the Native Land Court be directed to rehear the applications for succession to Harawira Heperi (deceased) *in re* the following blocks—Awarua 4A 3C 4C; Awarua 4A 3C 4E, Motukawa 2B 3B, Rangipo Waiu B 6A, Awarua 3D 3, No. 9, Oruamatua-Kaimanawa 3B in respect of which succession orders were made on the 17th January, 1913; and also *in re* the Tokaanu B Block, in respect of which a succession order was made on the 16th January, 1918; and also *re* the balance (about £958) held for Harawira Heperi's estate by the Aotea District Maori Land Board.
 - (b.) Or, in the alternative, that legislation be introduced directing the cancellation of previous succession or other orders made on the 17th January, 1913, and 16th January, 1918, *re* Harawira Heperi (deceased), and directing the Court to make in lieu thereof orders in favour of Hera Wharawhara solely, with the Native Trustee as trustee for her while she remains a minor.
4. The position with regard to alienation of the interests now in dispute is as follows:—
- (a.) Awarua 4A 3C 4C: Leased. Any amendment of succession orders would merely affect shares of rent.
 - (b.) Awarua 4A 3C 4E: Position same as above (a).
 - (c.) Rangipo-Waiu B 6A: Sold to T. C. Cornford. Balance purchase-money is held by Aotea Board as part of the Harawira Heperi trust.
 - (d.) Awarua 3D 3 No. 9: No Board dealings.
 - (e.) Oruamatua-Kaimanawa 3B: No Board dealings.
 - (f.) Motukawa 2B 3B: Leased. Only shares of rent affected.
 - (g.) Tokaanu B Block: Harawira Heperi had fourteen shares. Since the succession order was made in favour of the next-of-kin, two of the next-of-kin have sold their shares, but their shares were very small—only $\frac{2}{5}$ of share has been sold out of fourteen shares. Purchase-money for such small shares would only amount to a few shillings.
 - (h.) Aotea Board holds £957 19s. 6d. in Harawira Heperi's Trust Account.
5. Reference is made to the information supplied in the memorandum of the 6th December, 1920, from the Registrar to the Under-Secretary.
6. The Court has no doubt whatever but that Hera Wharawhara is the rightful sole successor to Harawira Heperi in the interests above mentioned.
7. Copies of orders of the Native Land Court and Native Appellate Court are already with you.

F. W. ACHESON, Judge.

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