

This occupation goes back over a century. Pita Tana, who possibly is not altogether reliable, stated that Ripeka Tangi and her brother, Here Mokena, were born at Te Tapu or Toroakapakapa, which is some little distance from Kaipiha, on the opposite side of Waipa River.

Aperahama Patene, the conductor for the Tanas in the investigation proceedings, declared that the Ngatipou were there long before Matakītaki. The Court, however, appears to have accepted the Ngati-Hikairo version, that Mihi Papene's family (the Turners) have been in occupation of Kaipiha from about the time of the fall of Matakītaki, in 1822 (? 1821). It is quite probable that they did in fact leave Lower Waikato through dread of the Ngapuhi.

Pita Tana in evidence before me stated that Ripeka Tangi went to Kaipiha when she married Tana, and settled there, but that Here Mokena, when he grew up at Te Tapu, returned to Ngatipou land at Whangape and remained there till the Waikato War, when "the pakehas drove him away," though prior to that he and his sister, Ripeka Tangi, occasionally visited each other.

This witness stated at the investigation that Mihi Pepene was born on Kaipiha. I am, however, satisfied that was not so. All the evidence, including that of Pita Tana himself, goes to show that the first settlement on Kaipiha was by Ripeka Tangi and Turner. But Mihi Papene, who is still alive, said to be 106 years of age, was not the child of Turner, but of Ripeka by her first husband, also a European, called by the Natives Kamupene. But Ripeka had twelve children by Turner. The eldest, Hare, it is said, would be nearly 100 if still alive. Hera Tana (still alive) is eighty-six, and it was stated there were several between her and Hare. Therefore the occupation was long prior to 1840.

With regard to Here Mokena, the position, in my opinion, disclosed by the evidence is this: Whether Here Mokena and Ripeka Tangi were born at Te Tapu, as stated by Pita Tana, or elsewhere, as I think probable, there can be little or no doubt that, while Ripeka settled at Kaipiha with her husband (Turner), Here Mokena returned to the Ngatipou lands at Whangape. There he remained, with occasional interchange of visits between himself and sister, till the Waikato War, when he was obliged to leave, being a follower of Tawhiao. He came to a place named Te Kotai—like Te Tapu, on the opposite side of the Waipa River from Kaipiha, from which it is distant about three miles. There he established, or re-established, a kainga for himself and others who followed him. He lived there for a considerable time, naturally enough paying frequent visits to his sister at Kaipiha, and no doubt also, as a follower of Tawhiao, often staying at that chief's well-known settlement of Whati-whatihoe, which is quite close to both Kotai and Kaipiha. He also lived at Otorohanga for a time. Later on he went away gum-digging and died at Auckland while on an expedition for that purpose.

It is beyond all doubt that Here Mokena never had any kainga of his own on Kaipiha Block. When he was there he always lived with his sister, Ripeka Tangi, or one of her sons. He was not there when the investigation took place. It is not disputed that his body was brought back and buried in an *urupa* on Kaipiha, but it was explained that this was an *urupa* in general use. In any case, having regard to the close relationship to Ripeka Tangi and her family, burial in their *urupa* would be natural enough, apart from any question of right to the land.

I will refer to some of the evidence given for the petitioner which bears out the opinion I have expressed.

Pura Tana, a grandson of Ripeka Tangi, aged about fifty, called for petitioner, said: I heard of Here Mokena; never saw him. I saw Ripeka Tangi, my grandmother; I was a boy at the time. I heard Here Mokena lived on the block with his sister when it was investigated (but witness did not know when investigation took place). I never saw Here Mokena living on this block (yet witness must have been nine or ten when the investigation took place). I discussed matter of Rutu being given some interest with Meri Tana (aunt, deceased). We did not go into question of *take*. It was through relationship and *aro*ha that Meri and I thought Rutu should be admitted.

Tamati Tamihana, another witness for petitioner, said he was sixty-seven, and belonged to Ngati-Puhiawe of Ngati-Hikairo. He came from Kawhia about 1874 or 1875, which, of course, was long after the Waikato War, and saw Here Mokena and others of the elders living at Kotai, Kaipiha, Kōnokono. First said all these kaingas were in Kaipiha, but on being challenged said that Kotai was on the other side of the river. Later the witness said: "It is correct that Kaipiha was Ripeka's chief kainga. Here Mokena's chief kainga was Kotai, *pea*." Witness went on to say, "Here lived with Ripeka as brother with sister. I did not hear of any occupation prior to the time I saw him."

On cross-examination, the witness said: I cannot give any kainga of Here Mokena on this land. When I saw him he was with Ripeka *ma*. I saw him at Kotai. I saw Ripeka there at times, but she did not live there permanently. Kaipiha was Ripeka's home. I can't say that it was Here Mokena's permanent home, but I saw him there as well as at Kotai.

An important witness was Te Arai Mokena, son-in-law of Here Mokena, having married Parekuku, elder sister of the petitioner. He gave his age as seventy-six. He said he lived frequently with Ripeka. Knew Here Mokena long before the Waikato War (witness about twelve when that occurred). Here was living at Kaipiha when witness first saw him. (Kaipiha here means the kainga of that name, admittedly Ripeka's home.) Here lived at Tupeke, near Whangape. (On suggestion, corrected statement to Kaipiha.) Here went to Whangape before the war. I don't know how long before—a long time. He was at Kaipiha a long time before the war. He came back to Kaipiha after the war. I don't know how long after. I don't know when the war took place.

Not much can be made of this portion of the witness's evidence. But witness continued: When Here returned to Kaipiha he had no kainga of his own. He lived in his sister's kainga. Stayed