

made excepting as regards such portions or interests as were affected by alienation to the Crown—*in short, the Court was authorized to ignore the rebellion and confiscation and the various promises and Acts that preceded the legislation of 1924, and to ascertain the owners of the block as if it were Native land the title of which had not been investigated.*

10. In pursuance of this section, the Court, sitting at Napier on the 25th June, 1925, and following days, by implication, cancelled the partition of 1st November, 1922, excepting as regards Nos. 3, 5A, and 5B, admitted a number of persons other than the proposed grantees or their descendants into the title and readjusted the relative interests. Nos. 3, 5A, and 5B were left as made by the Court of 1922, 1A, 1B, 1C 1, &c., were awarded to the Kahutapere section of claimants, and one order made for the residue of the block comprising all the other divisions. Appeals were lodged against the decision and were heard by the Appellate Court at Hastings on the 4th April, 1927. That Court, after making slight variations in the orders appealed against, dismissed the appeals.

11. On the 20th August, 1927, the Court made a further partition cutting off 3,664 acres for Raroa Sullivan in pursuance of the award to him of 4,800 shares by the Court of 1925 for the purposes of sale to pay expenses. Applications were made to the Court for the partition of other interests, but the Court deemed it inadvisable to proceed further at the time and made no other order. It added: "As this last-named area is to be sold to pay survey liens and costs and as there is unmistakable unanimity regarding its location and little chance of an appeal, the order for it will date from yesterday, 19th August."

12. Section 46 of the Native Land Amendment and Native Land Claims Adjustment Act, 1928, next empowered the Court, on an application lodged by any person interested within six months from the date of the passing of the Act, to reopen the proceedings of the Court under section 38 of the Act of 1924 "in so far as such proceedings affect the divisions or allotment of shares awarded to the section or persons known as Ngatihineuru and the distribution of such shares to the individual owners, and to make orders therein as circumstances may require." The provisions of the section were not to extend to the 3,200 shares awarded to the Tuwharetoa Section nor the 4,800 shares set apart to be applied to the payment of expenses. The Court had power, also, to adjust the relative interests shown in any order, or to amend, vary, or cancel, any partition order in so far as it might be repugnant to the relative interests as determined by the Court—and the Court was not in proceeding under the section to be bound by the decision of any former Court or Appellate Court.

13. In pursuance of this section, the Court sat at Hastings on the 11th April, 1929, and following days. By implication it superseded the orders for Nos. 3, 5A, and 5B and the residue order of the 1925 Court, and made an order on the 5th October, 1929, defining the relative interests in the Ngatihineuru portion of the block, less the division called X, which had been awarded to Raroa Sullivan. The question of a partition was held over.

14. Meetings of the representatives of the owners were subsequently held at Wellington, Hastings, and Te Haroto to arrange a partition. An arrangement was made which was presented to the Court at a sitting at Te Haroto on the 30th April, 1934. Two matters in dispute were referred by the Committee to the Court—the complaints of the Baker family and the Pohe family. After consideration, the Court accepted the arrangement without alteration and made orders giving effect thereto.

15. Applications for rehearing were lodged by these families (two of the present petitioners), but after hearing the Court dismissed them. Appeals were lodged. In the case of the Pohe family, Kaperiera Pohe, who represented the appeal, decided to withdraw it, and it was dismissed. The appeal of the Baker family was proceeded with, and resulted in a considered judgment dismissing it on the 4th June, 1935.

16. As to the petitions, the Court will now deal with them, taking firstly that of

Kaperiera Pohe and others (No. 262 of 1936).

The petitioners are the representatives of Ngahere te Pohe, one of the twenty-eight proposed grantees. The grounds of the petition are shortly as follows:—

- (1) That Ngahere te Pohe, from whom they derive their interest, was a loyal Native and a stout supporter of the Crown.
- (2) That the proposed award of the Tarawera Block to the twenty-eight persons in equal shares was sanctioned and approved by Parliament, and was further confirmed by the Court of 1922, which allotted the petitioners Tarawera No. 7, containing 2,743 acres.
- (3) That the petitioners had rights by ancestry and occupation to Tarawera No. 7.
- (4) That the passing of section 38 of the Native Land Amendment and Native Land Claims Adjustment Act, 1924, reopening the whole case and empowering the Court to include additional names, was a direct breach of the agreement of the 13th June, 1870.
- (5) That the petitioners were not at any time in agreement with the reallocation made by the 1924 Court.
- (6) That the rights of Ngahere Pohe as an original grantee were not investigated by the Court of 1929, and that the petitioners were unaware that an order had been made in 1929 defining the relative interests of the persons whom it found entitled.
- (7) That the Court of 1934 refused to hear any objection to its award, alleging that the petitioners were too late in making it.

The petitioners therefore prayed—

- (a) That they be reinstated to their full rights, shares, or interest in the Tarawera Block, as descendants of Ngahere te Pohe, which they had or were possessed of prior to the passing of section 38 of the Native Land Amendment and Native Land Claims Adjustment Act, 1924; or, in the alternative,