

IN THE HIGH COURT OF THE COOK ISLANDS
HELD AT RAROTONGA
LAND DIVISION

Application No 207/98

IN THE MATTER

Section 450 of the Cook Islands Act
1915

AND

IN THE MATTER

of the land known as TE TAORA
SECTION 128D AVARUA and
Others

AND

IN THE MATTER

of an application by MII COLLIER
to revoke succession orders made on
the 29th May 1968 in relation to the
interests of TUOKURA MAEVA.

RESERVED DECISION OF THE COURT

This is an application by Mii Collier to revoke succession orders made on the 29th May 1968 in respect to the interests of Tuokura Maeva. The applicant relies upon the grounds substantially that the successor Emma Moetaua was adopted by the deceased and therefore not entitled to succeed.

On page 1 of her submissions filed in support of the application, Mii Collier states "*We consented to Emma succeeding because Tuokura left a Will.*"

This Court finds it difficult to reconcile Mii Collier's claim now that Emma should not succeed with the fact that at the time the orders were made Mrs Collier states that the family consented to the order.

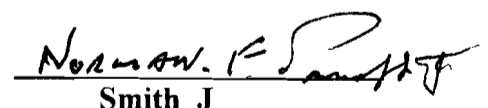
Irrespective of this however, following the succession orders complained of, an appeal was lodged by Makeanui Ariki. The decision of Chief Judge Morgan delivered on the 29th of May 1968 is recorded at MB 28 folio 158-162. In that decision the Chief Judge traverses at length the principles applying to succession by adopted children and also discuss at length the genealogy of the deceased and noted that "*It is doubtful if the next of kin of Tuokura are related closely enough to make a valid objection to the applicant's claims but in any case they have not done so.*"

The decision of the Court of Appeal was that the succession orders shall stand. That decision being by a superior Court is binding on this Court, and there the matter ends.

Not only is this Court bound by the decision of the Court of Appeal, but the principles of res judicata must also apply to defeat of the claims of the applicant herein.

The application is dismissed.

This decision was promulgated at Tauranga, New Zealand on the 14th day of December 1999.


Smith J