

IN THE HIGH COURT OF THE COOK ISLANDS
HELD AT RAROTONGA

APPLICATION NO. 516/00

IN THE MATTER of Section 409(f) of the
Cook Islands Act 1915

AND

IN THE MATTER of the TEORA
RANGATIRA TITLE

AND

IN THE MATTER of an Application by
HENRY KETA A
TEARA BROWN
Applicant

Mrs T Browne for applicant.

William Ahiao – objector

Ina Matapakia O Taputu Nui o Iva Tutuina– for objector.

Ah Young Enjoy – objector.

Date of hearing: 20 August 2001

JUDGMENT OF SMITH J

This is an application under Section 409(f) of the Cook Islands Act 1915 to determine whether the applicant Henry Keta A Teara Brown has the right to hold the Rangatira title “Te Ora.”

Evidence was taken on the 12th March 2001 and the matter adjourned to enable the parties to file written submissions.

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Mrs T Browne filed her submissions on behalf of the applicant on the 16th August 2001 and two objectors appeared today to make submissions and present written statements.

After hearing the parties, the Court reserved its decision.

DECISION

Section 409(f) of the Cook Islands Act 1915 empowers the Court to hear and determine any question as to "the right of any person to hold office as an Ariki or other Native Chief of any Island."

The applicant in this matter claims the right to hold the currently vacant Rangatira title "Te Ora."

In her submissions, Counsel for the Applicant submits:-

- (i) That the applicant is the son of the late Mata Mereana Aitu the previous holder of the title
- (ii) That as shown in the genealogy produced, the applicant is descended from Mararauta from whom all of the title holders are descended.
- (iii) That the applicant has been elected by his family to hold the title.
- (iv) That his investiture was carried out in accordance with Maori custom on the 5th August 2000.

At the hearing on the 12th March 2001, Mr Tutuina, on behalf of William Ahiao, argued that the election of Te Ora Rangatira should be made by the whole Ngati Te Ora, of which there are 9 branches, only 7 of which have descendants.

He produced in evidence an extract from Minute Book 29 Folio 219-222 relating to claims by Marie M Pupuke and Mata Brown to the title. He referred in particular to

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the fact that Aitu Taopua the previous holder had died without natural issue but had adopted children, one of whom was Mata Mereana Aitu or Brown, the mother of the applicant in this present application. He also argued that Mata Mereana Brown was not from the blood line of Te Ora Rangatira.

It is pertinent to note that the minutes produced include a genealogy showing Mata and Aitu as both being descended from Papai Rangatira thus establishing a blood connection between the two.

The minutes record that the Court reserved its decision, but Court records show that Mata was entitled to hold the Rangatira Te Ora title and did in fact hold it.

Mr Tutuna also submitted that in accordance with submissions by the House of Ariki to the Legislative Assembly in 1970:

“An adopted child has no legal right to the lands and title of the family if he has no blood relationship to the ancestral landowner...”

This Court is not however dealing with land rights, but Title rights.

This Court has already dealt with the question as to who is entitled to hold the title Te Ora Rangatira, namely, claims by William Ahiao and Tearii Lucky Mave. Both were found by the Court not to be entitled in decisions delivered on the 20th September 2000.

In those decisions, the Court referred to a resolution passed by the Ariki on the 23rd November 1943 whereby it was recorded that where a title holder died leaving issue then the family of the deceased Rangatira decide amongst themselves who is to hold the title. The children of the deceased Rangatira were to be given preference.

At MB 29 Folio 328 the Court held:

“All previous holders of the title back to Te Ora himself have

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come from Mararauta's line -- down to the eighth holder Aitu."

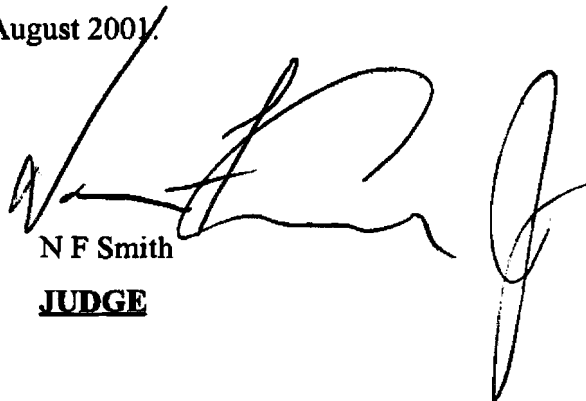
It was Aitu's adopted daughter Mata who then took the title and on her death her son, the present applicant, seeks to hold the title. This has been approved by his family.

In light of the resolutions passed by the Ariki and referred to above, it is clear that there is no impediment to the applicant herein holding the Rangatira Title Te Ora and that the selection process was appropriate.

This Court has no jurisdiction to appoint the holder of an Ariki or Rangatira title but in terms of Section 409(f) of the Cook Islands Act 1915 is empowered to determine whether a particular person is entitled to take such title.

Having heard the evidence and submissions and for the reasons set out above, this Court finds that Henry Keta A Teara Brown is entitled to hold the Rangatira Te Ora, title.

Decision delivered at Rarotonga this 21st day of August 2001.



N F Smith
JUDGE