

IN THE HIGH COURT OF THE COOK ISLANDS
AT Aitutangi
APPLICATION NO. 538/06

IN THE MATTER of Rules of the Code of Civil
Procedure of the High Court

AND

IN THE MATTER of the land known as
VAITAMANGA SECTION 28M
AKORANGI

AND

IN THE MATTER of an application by KAVENIA
to rehear the Judgment of
Hingston J, made on the 22nd
August 2006.

On the 18th November 2001, the Court of Appeal for the Cook Islands vacated a succession order made in respect of the interests of Te Ariki Paitai in the above lands.

In its decision, the Court of Appeal did not make any alternative order but directed the parties to file fresh applications for succession in the High Court.

The succession application came before Justice Hingston and on the 22nd August 2006 New Zealand Time a decision was delivered.

The learned Justice held that there was still confusion as to whether "Paiti" and "Te Ariki Paitai" were identical and therefore adjourned the application *sine die* to enable any interested party to bring an application to amend an order determining the relative interests of the owners shown on the title for the above land.

This instant application is to re-hear the application before Hingston J.

The matter came before the Court in July 2007 when Counsel for the Respondents sought an adjournment. After hearing Counsel, the Court ruled that there was sufficient justification for a re-hearing and granted the same. A time was fixed during the following week to hear the matter.

At the commencement of the hearing Mr. George, Counsel for the Respondents sought to hear the evidence and submissions for the Applicant entered into the record and he would undertake to file and exchange submissions when he received a copy of the transcript. Mrs Browne agreed and proceeded to present her case after which the matter was adjourned *sine die* pending the filing of submissions and response. The papers have now been referred to me for determination.



Having perused the substantial volume of submissions and transcript there is still insufficient for the Court to conclusively find that "Paiki" and TeAriki or Teariki Paitai" are identical. Genealogies produced tend to connect Teariki Paitai to the Tinomana family, but it is only at page 10 para [xiii] of Mrs Browne's initial submission is there any reference to Paitai. But, is he identical to Paiki? Even Teira Rere in his book "Genealogy of Tinomana Family" only refers to "Te Ariki Paitai".

This instant application is to rehear Justice Hingston's decision. However, he made no decision and merely adjourned the application *sine die*. What then is there for this Court to hear?

The rehearing is now dismissed and it is left to the parties to apply to have the application extant the Court, albeit adjourned *sine die*, brought on for hearing.

There is no order for costs and costs shall lie where they fall.

Dated at Timaru in the North Island of New Zealand this 25th day of June 2006.

