

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

**Application Nos. 243/2011 & 244/2011**

IN THE MATTER      Section 390A of the Cook Islands Act  
1915

AND

IN THE MATTER      of an Application for rehearing

AND

IN THE MATTER      of the lands known as **ONEMARU AND  
TEMATI SECTION 83C3, ARORANGI,  
ONEMARU AND TEMATI 83C2B LOT  
25, ARORANGI, VAIMAANGA  
SECTION 6C, TAKITUMU, VAIKAIKA  
KI UTA SECTION 45H, TAKITUMU  
AND VAIKAIKA SECTION 45K,  
TAKITUMU** (“the Lands”)

AND

IN THE MATTER      of an application for an Order Granting  
Revocation of Succession Orders and  
new Succession Orders

BETWEEN            **TEAROA TINI** on behalf of the issues  
of **TEANGI URI @ TE ANGI URI @  
TUTU JOHN TINI**

Applicant

AND

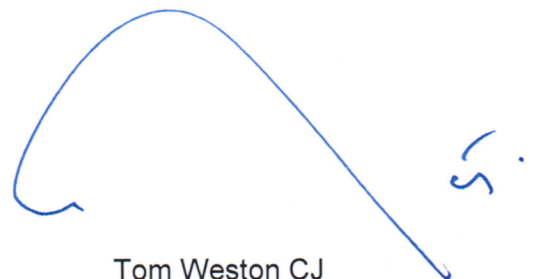
**INA BISHOP** of Rarotonga  
Respondent

**JUDGMENT OF THE COURT**

- [1]      There is an application before me made in terms of section 390A, the Cook Islands Act 1915, to set aside Succession Orders made by the Court on 15 October 2010 in relation to five parcels of land (being the parcels shown in the intituling). Further, the applicant seeks, in effect, replacement Succession Orders.
- [2]      An amended application supported by an affidavit of the applicant was filed in November 2011.
- [3]      A supporting memorandum dated 10 January 2012 was then filed which described that service of the application had occurred.

- [4] On 7 February 2012 (NZT) I issued Minute (No. 1) of the Court seeking further information on two topics. First, I wanted to know why no steps had been taken to oppose the application made in September 2010. Secondly, I sought further help in relation to the proposition that only a legally adopted child might succeed.
- [5] A further Memorandum was filed on 24 February 2012 together with an affidavit of the applicant. The applicant explained why he had not opposed the original orders. I am satisfied with his explanation.
- [6] At that time, the applicant was not able to assist in relation to the second topic.
- [7] I then issued Minute (No. 2) of the Court directing that the Land Division prepare a report.
- [8] Following the issuing of that Minute I located the relevant authority in relation to adoption, and in particular the decision of Chief Judge Morgan given in 1968 in the Emma case (Minute Book 28/156-162). I gave that to Mr Little.
- [9] The matter was called before Savage J on 3 October 2012. There was no appearance for the respondent. Evidence was given before the Court as to the correct genealogy. Savage J reported to me.
- [10] I am satisfied that the application should be granted. The persons listed as numbers 7, 8 and 9 on the genealogy attached to the original application were grandchildren of the deceased with a living parent also shown as succeeding to the relevant interests. The person numbered 10 was not a legally adopted child and should not have succeeded to the interests. The Succession Orders are set aside. New Succession Orders are made in favour of those persons described in paragraph 11 of Mr Little's submissions dated 25 September 2012.
- [11] I invite Mr Little to draft a Judgment which is to be forwarded to me for my approval before it is sealed.

Dated 28 January 2013 (NZT)

A handwritten signature in blue ink, consisting of a large, sweeping arch followed by a smaller, more complex flourish.

Tom Weston CJ