

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

Application No. 3/2013

IN THE MATTER of Section 390A of the Cook Islands Act 1915
AND
IN THE MATTER of **ARERENGA Section 12, Arorangi** ("the Land")
AND
IN THE MATTER of an application to rehear the Order Granting Right of Succession to **POUARII** made on 15 June 1939

BETWEEN **NGAPARE CECIL SAMATUA** of Rarotonga, Retired Applicant

AND **POUARII & MARIA TANNER** of Rarotonga, Landowners Respondents

Counsel: Mr Brown for the applicant
Mr Moore for the respondents
Mrs Browne for the objectors (Warren and Mustonen)

Judgment: 30 May 2014 (NZT)

JUDGMENT OF THE COURT

- [1] The applicant applied to the Court on 26 April 2013 seeking to set aside a succession order made on 17 November 1939.
- [2] Ultimately, I referred the matter to a Judge of the Land Division for report and the matter came on for hearing before Isaac J on 1 May 2014. The Judge subsequently proved a written Report recommending that the application should be dismissed. He noted that counsel for the applicant agreed that the application should be dismissed. That left the question of costs outstanding.

- [3] I invited submissions as to costs on the assumption that I would adopt the recommendation. Responsibly, counsel and agents for the parties reached agreement on costs and on 27 May 2014 submitted a joint memorandum by consent that costs should be ordered:
- [a] in favour of Mrs Browne's clients in the sum of \$2,390;
 - [b] in favour of Mr Moore's clients in the sum of \$715.80.
- [4] I now formally dismiss the application brought by the applicant and order payment of costs by the applicant to the objectors (Mrs Browne's clients) in the sum of \$2,390 and \$715.80 to the respondents (Mr Moore's clients).



Tom Weston
Chief Justice