

**IN THE HIGH COURT  
OF NIUE  
(LAND DIVISION)**

**App No. 10984/57/6**

**IN THE MATTER**

of Section 44(2) of the Niue  
Amendment Act (No.2) 1968  
and Rule 12(12) of the Land  
Court Rules 1968

**AND  
IN THE MATTER**

of the land known as  
SECTION 1, BLOCK II,  
PART LIALAGI, Alofi

**BETWEEN**

LAMEPATI ETTIE  
HUNUKI KAULIMA, LEO  
ISAIA HUNUKI and  
LAWES HUNUKI

**Applicants**

**AND**

MAMATAHEONE  
HUNUKI GILL

**Respondent**

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**DECISION OF JUDGE W W ISAAC**

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[1] On 7 January 2014 I was emailed a copy of an application for an injunction filed by Lamapati Hunuki Kaulima, Leo Hunuki and Lawes Hunuki.

[2] The application is to stop any building works and future proposed building on the land upon the grounds that Mamataheone Hunuki Gill's appointment as the Leveki for this land was unauthorised by the family and the building work on the land is unauthorised and without prior consultation with the family.

[3] James Gill has responded on behalf Mamatahoene Gill stating that Mamatahoene Gill was duly appointed as Leveki by Court Order of 3 September 2007, that Mamatahoene Gill was granted an Occupation Order by the Court on 24 November 2010

and that over the last 10 years considerable time and expense has been spent renovating and maintaining the property without contribution or objection from family members. It is also stated that the applicants of the injunction have not resided in Niue for more than twenty years and have shown little interest in the Magafaoa. Mamatahoene Gill has been closely and actively involved in the previous and current Leveki of the Hunuki Magafaoa.

### **Discussion**

[4] Having considered the application and the supporting documentation I do not consider the application has merit and should fail.

[5] First, Mamatahoene Gill was duly appointed Leveki by the Court on 3 September 2007. There have been no applications for rehearing or appeal of that decision within the statutory timeframes.

[6] Accordingly Mamatahoene Gill has the authority to act as Leveki for the Magafaoa and make decisions for this land.

[7] Next, by Court Order of 24 November 2010 Mamatahoene Gill was granted an Occupation Order in respect of this land. Again there have been no applications for rehearing or appeal of that decision. Accordingly Mamatahoene Gill and James Gill have the authority to carry out the works on this land.

[8] In my view therefore there is no serious case to answer by the applicants and the application for the injunction must be dismissed.

[9] A copy of this decision is to go to all parties.

Dated at Wellington this 8<sup>th</sup> day of January 2014.

  
W W Isaac  
**JUDGE**