

IN THE EFATE ISLAND COURT
OF THE REPUBLIC OF VANUATU
(Civil Jurisdiction)

Civil Case No. 15 of 200

BETWEEN: **CHIEF HENRY CEREL MANLAEWIA V**
Applicant

AND: **CHIEF LAKELEOWIA and**
DECENDANTS
Defendants

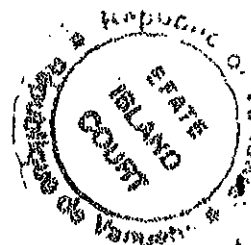
URGENT APPLICATION

This is an application filed by the applicant, Chief Henry Cerel in relation to the "Manlaewia" chiefly title dispute case listed for hearing at Paunagisu village on 17/07/06. In his application the applicant seeks the following relief;

1. An Order that the Court adjourns this proceeding until further notice.
2. An order that the Court remit this matter to the Vaturisu Council of Chiefs and Malvatumauri Council of chiefs to determined the dispute.
3. An order that costs of this application in the cause.
4. Any other orders the Court deems necessary.

The grounds advanced in support of the application are *inter alia*.

1. Applicant was formally informed by Court Officers that the formal way to adjourned the matter must be by way of application. Applicant claimed that he was informed lately on Friday the 14/07/06.
2. Chief Henry Cerel Manlaewia V was not given convenient time to reply to this case nor he given sufficient time to reply any allegation made against him.
3. Until recently, the controversial issue of the Chiefly title has been contested by a number of villages such as Erakor, Mele, Siviri, and Tanoliu to date. Pango village has had this issue resolved appropriately by the Vaturisu Council of Chiefs in 2005. Even when the Court of law has been seen to adjudicate in matters which ought to have been dealt with by the appropriate forum. In this case the appropriate forum to determine the



rightful entitlement of a chief in Efate would be the Vaturisu Council of chiefs and appeal able before the Malvatumauri Council of Chiefs by the appealing party or the party in grief. Matter as such after being dealt with by Court of law can be seen to defy the course of justice and the sole purpose behind the establishment of customary institution has been condoned namely; Vaturisu Council of Chiefs and Malvatumauri council of chiefs which have jurisdiction among other things to deal with the issue of chiefly title appropriately.

In responding to the application (Titus Taripu), spokes man of the defendant contested in the following words;

1. He is the claimant in the substantive issue and believe Hendry Cerel Manlaewia is aware of the case and prepare to defend himself in this Court since he filed the case sometime in April, 2006.
2. As the claimant, he was formally informed by way of notice by the Court on 14/07/06 whilst the defendant was formally informed on the 12/07/06, which means he must be well prepare to defend himself.
3. His application to have this matter transferred to Vaturisu and Malvatumauri, as Claimant, he has experience cases like the Maripopongi one and other issues that Vaturisu never uphold their decisions and that Vaturisu have no powers to enforce their orders since it is not a Court of law.
4. After responding Mr Titus Taripu made an oral application to have this matter adjourned to the following day and to be heard at Port Vila since there has been allegations of biasness in the Kakula case which have been determined by the same Court on same place. That was because Chief Henry Cerel Manlaewia and his group were providing foods to the Justices and he even meet them every end of the day.
5. In responding, Chief Henry Cerel denies the allegation and argue that this matter concern people and society of Paunagisu so it is better the matter be heard at Paunagisu village.

After hearing the applications and the responses, the Court make the followings Rulings;

1. The Court found that Section 2 and 3 of Rule 2 of the Civil Procedure Rules of 2005 is not being observed. Applicant received his summons to attend Court together with the claim against him on 12/07/06 which is 5 days away from today the 17/07/06. The defendants received their summons to attend Court together with the claims on the 14/07/06 which



is 3 days away from today. This is contrary to the rules prescribed in Island Court Rules No. 28 of 2005 therefore Order 1 is granted.

2. Order 2 is not granted. Island Court is empowered under section 10 of the Island Courts act Cap 167 to deal with issues relating to custom.
3. Order 3 is granted. Both parties to meet their costs.
4. Oral application made by Mr Titus Taripu to have this matter adjourned to Port Vila for hearing is not granted. The Court sees the importance of determining the substantive issue here since it concerns the superiority of the society of Paunagisu Village.

Orders:

1. Chief Henry Cerel Manlaewia is given 7 days from today to file his defense on the allegation made against him.
2. Clerk of the Court is directed to serve the defense statement to Chief Lakeleowia and descendants by 26/07/06.
3. Matter is hereby adjourned to 1st of August 2006 at 9.00 am to be heard at Paunagisu village.

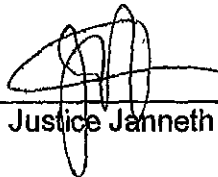
Dated at Paunagisu this, 17th day of July 2006.



Justice Ann Kalo



Justice Makal Kalsong



Justice Janneth Simon

