

**IN THE MAGISTRATE'S COURT  
OF THE REPUBLIC OF VANUATU**

Civil Appeal case No. 09 of 2013

*(Appellant Jurisdiction)*

**BETWEEN: FAMILY RORY**

1<sup>st</sup> Appellant

**AND: JEANNOT MALCEKAN**

2<sup>nd</sup> Appellant

**AND: GRATIEN VIRVIR**

1<sup>st</sup> Respondent

**AND: TEILEMB MELTOUSI ALBERT MARIE**

2<sup>nd</sup> Respondent

**AND: ISMAEL MALVARU**

3<sup>rd</sup> Respondent

**AND: TETEOUR KISITO TEILEMB**

4<sup>th</sup> Respondent

**AND: TORONBABARU**

5<sup>th</sup> Respondent

**AND: MALTAUS RICHARD**

6<sup>th</sup> Respondent

**AND: WILFRED TUENVANU**

7<sup>th</sup> Respondent

**AND: LILIORD GUILLAUME**

8<sup>th</sup> Respondent

**VARIATION OF ORDER DATED 16 MARCH 2015**

Having considered that the Court had made a mistake in its judgment dated 16 March 2015 as to its findings and order, the judgment of the Court should be read as follows:

Findings:

The Court finds that:

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- The learned justices had erred in law to send a chiefly dispute back to North East Malekula Council of Chiefs since it has no judicial jurisdiction. It is clear from the National Council of Chiefs Act NO. 23 of 2006 that the North East Malekula Council of Chiefs only has an administrative and executive jurisdiction but no judicial jurisdiction to deal with a claim in the formal system.
- The principle laid in *Tenene v Nmak* and *Chief Mariwota Matua Tapu v Samuel Rolland & Ors* must be applied in this matter. The Court is satisfied that proper forum to determine the chiefly dispute over a nasara is the Island Court. Therefore, the learned justices erred in law.
- The Malekula Island Court had made a mistake to record the Second Appellant's claim in respect of Toughvanu nasara and not Lamatnamaki nakamal.

### **ORDER**

The Court orders as follows:

1. The decision of the Island Court dated 05<sup>th</sup> September 2013 is hereby quashed.
2. The Malekula Island Court shall dismiss the Second Appellant's claim in respect of Toughvanu nasara.
3. The Second Appellant shall file a new claim in the Malekula Island Court for the Lamatnamaki nakamal and not Toughvanu nasara.
4. Each party may pursue their claim of chiefly title in respect of their own nasara or nakamal in the Island Court or the village court as they choose.
5. Costs to be taxed or agreed upon.

DATED at Lakatoro, Malekula, this 11<sup>th</sup> day of June 2015

**BY THE COURT**

  
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**SENIOR MAGISTRATE**