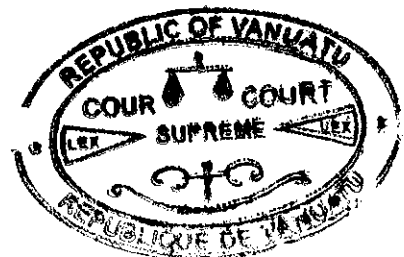


**BETWEEN: Family Aisoh**  
**Applicants**

**AND: Alick Massing**  
**Benisa Ben**  
**Dalbon Ailel**  
**Daniel Tom**  
**Harry Aimailgil**  
**Jasen Tom**  
**Kalo Smithy**  
**Moses Tom**  
**Otrick Massing**  
**Sanny Malae**  
**Stelin Massing**  
**Tomila Ben**  
**Windu Abong**  
**William Ailel**  
**Respondents**



**Date of Hearing and  
Decision:**

*Tuesday 23 August 2016*

**Before:**

*Chief Justice V LUNABEK*

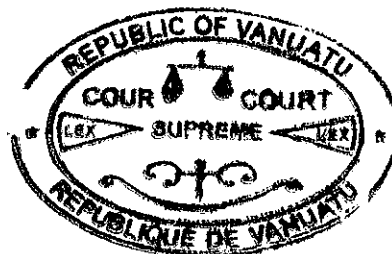
**In Attendance:**

*Jessica Paolo for Applicants*

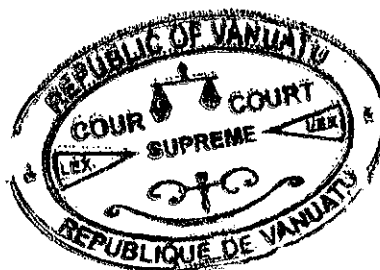
*Respondents are not legally represented. Mr. Sanny Malae speaks  
for himself and all other Defendants*

### MINUTES

1. On 24 August 2016 the Senior Magistrate Anna Laloyer transferred the following Magistrate Court cases to the Supreme Court:
  - Magistrate Courts Civil Case No. 23 of 2015
  - Magistrates Court Enforcement case No. 2206 of 2016
  - Magistrates Court Civil Case No 2724 of 2016
  
2. I have pursued these cases. I note the following:
  - I. On 20 May 2015 the Malekula Island Court issued declarations of ownership of certain custom Lands in favour of the Respondents.
  - II. The losing parties filed appeals against these Malekula Island Court declarations in the Supreme Court. They also filed applications to stay these declarations of the Malekula Island Court dated 20 May 2015.



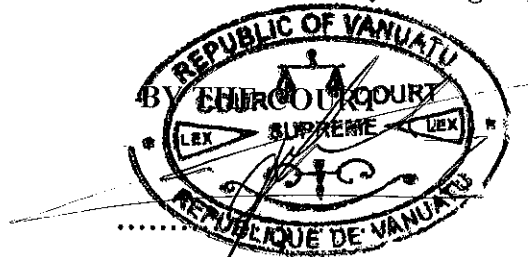
- III. In the meantime, applications for restraining order were made before the Magistrate Court the Malekula Magistrates Court issued these restraining orders on 26 September 2015, in Magistrate Case CC 23 of 2015 prohibiting some of the disputing parties to do certain things on the said Lands.
  - IV. On 16 July 2016, the respondents did not comply with the Magistrates Court orders of 26 September 2015.
  - V. Subsequent applications for Contempt of Court proceedings occurred before the Magistrates Courts between the same parties in Magistrates Courts Civil Case No 2724.
  - VI. Further Magistrate Court proceedings occurred before the Magistrates Court between the same parties in Magistrate Court Civil case No. 2724.
  - VII. On 23<sup>rd</sup> August 2016 the learned Senior Magistrate realised that there is serious issue of Jurisdiction of the Magistrates Court issuing these Orders of 26 of July 2016 and the proceedings and applications in Magistrates Court Civil Case No. 2724 of 2016. She then transferred these proceedings and Orders before the Supreme Court.
3. I have considered the proceedings and Orders issued in CC 23 of 2015 by the learned Senior Magistrate on 26 September 2015. I have also considered the proceedings and Contempt Orders issued by the learned Magistrate on 16 July 2016 In Magistrate Courts enforcement case No 2026 of 2016. I also further considered the proceedings and applications in Magistrate Courts Civil case 2724 of 2016.
  4. I find the Magistrate Court is lacking Jurisdiction in respect to such proceedings relating to disputes over customary lands and I make decisions dismissing proceedings and orders made by the Magistrates Court Civil Case No. 23 of 2015 and proceeding and orders issued in Magistrate Court in Civil Case No 2724 of 2016 of 2016. I stay proceedings in Magistrates Court Civil Case No. 2724 of 2016.
  5. To maintain the statuesque in between the parties, the Court issues the following Orders:



## ORDERS

1. An order that all parties be restrained from arguing between them about the disputed Lands
2. An Order that all parties to continue to work on the Lands they have been doing gardening and making Copra on
3. An Order that all parties be restrained from clearing new bushes
4. An Order that all parties be restrained from logging on disputed lands
5. An Order that these orders be effective until the Land Appeal case is determined
6. An Order that all parties be restrained from harassing, threatening, intimidating and assaulting each other
7. Any other order the Court deems proper

DATED at Lakatoro this 23rd day of August, 2016



V LUNABEK

Chief Justice