

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

Application No. 4/2005  
Land Application 645/2004

IN THE MATTER of Section 390a of the  
Cook Islands Act 1915  
and Rule 338 of the Code  
of Civil Procedure Rules  
of the High Court 1981

AND  
IN THE MATTER of the land known as  
TETARAVA SECTION 127U  
and SECTION 127V  
AVARUA

AND  
IN THE MATTER of Section 450 of the Cook  
Islands Act 1915

AND  
IN THE MATTER of an application to rehear  
the application made by  
Fanau Tepapaura Nicholas  
to revoke the Succession  
Order made to Elizabeth  
Ngatae (fd) in the interest  
of Takaia Mitaera (md)  
**Applicant**

Mr Tapaitau for Applicant

Mr J Ka for issue of Elizabeth Ngatae

Date of Hearing: 22 September 2005

Date of Decision: 22 September 2005

**DECISION OF SMITH J**

This was initially an application to the Chief Justice under the provisions of  
Section 390A/15 seeking an Order canceling the revocation of Succession Orders.

On the 26<sup>th</sup> May 2005 the Chief Justice cancelled the Order of the 18<sup>th</sup> March 2005 and directed the Court to rehear the application for revocation of Succession Orders.

Counsel for the parties have now filed a Deed of Settlement and joint memorandum whereby the parties agree to the revocation of the Succession Orders made on the 30<sup>th</sup> November 1956 in respect to the interests of Takaia on the land Tetarava Section 127U Avarua and vesting that interest in those originally listed as entitled to succeed together with:

1. Fanau Nicholas
2. Te Ariki Nicholas
3. Makiroa Nicholas equally

There are consequential orders required as a result of this in that the Succession Orders to Elizabeth Marama and Ngatae on the 23<sup>rd</sup> September 1991 (RB 7/220) must also be revoked and new orders made in favour of those entitled to succeed together with numbers 1 to 3 above equally.

On the 7<sup>th</sup> January 1993 the Court made a Partition order (RB 9/138) partitioning Te Tarava Section 127U.

As a result of the amendments to the Succession Orders made a variation to the Partition Order is required to adjust the relative interests as follows:

"Those numbered 1-13 in the joint memorandum described as the issue of Elizabeth Ngatae retain their respective interests in Lots 1,2,3,7 and 12 on the plan of Partition and Lots 9,10 and 11 shown on the plan are to vest in 1 to 3 above equally."

Accordingly there are Orders revoking the respective Succession Orders and substituting the new orders as above, and varying the Partition Order as stated.

A handwritten signature in black ink, appearing to read 'N F Smith', with a stylized flourish at the end.

N F Smith

**JUDGE**