

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

Application No.596/06

IN THE MATTER

of Section 450 of the Cook  
Islands Act 1915

AND

IN THE MATTER

of the lands known as  
NGATIPA SEC 144, AVARUA  
RAROPUA SEC 190M1-2,  
AVARUA, OTAKE SEC 12H  
NGATANGIIA AND MAII  
SECTION 12E NGATANGIIA

AND

IN THE MATTER

of an application to revoke  
Succession Orders made on the  
24<sup>th</sup> November 1954 in favour of  
**MIKARA AND TARUIA** in the  
interest of **APAI TURURANGI**  
both deceased. (Objectors)

AND

IN THE MATTER

of an application by **TEKEU**  
**FRAMHEIN (aka APAI**  
**MATAIAPO TUTARA OF**  
**NGATI APAI** of Rarotonga  
(Applicant)

Parties:

Tekeu Framhein Applicant  
William Framhein as agent  
Descendants of Mikara and Taruia Respondents  
Mrs T Browne as counsel  
Date of hearing: 23 August 2006  
Date of decision: 5- 9- 06

**DECISION OF SMITH J**

The application filed refers on the cover sheet to the following lands concerned in the application:

Ngatipa Section 144 Avarua  
Raropua Sec 190M1-2, Avarua  
Otake Section 12H Ngatangia  
Maii Section 12E Ngatangia and  
Turoa Section 33 Takitumu

The case sheet and application record that the applicant seeks revocation of:-

The Succession order made on 18<sup>th</sup> March 1903, and  
1954 by Mikara and Taruia in the interests of Teariki  
Apai Mataiapo and Tururangi Apai Mataiapo.

In so far as the application relating to the order on 18<sup>th</sup> March 1903 is concerned, that was an order following the investigation of title and not a succession order, and section 450 of the Cook Islands Act does not empower the Court to take any action in respect to that.

The Court has assumed that "1954" refers to a succession order made on the 24<sup>th</sup> November 1954 in respect to the interests of Ngarangi Apai and Apai Tururangi in Housesite 144 Avarua.

This assumption is made upon the basis that both the original agent and the current agent produced copies of the minutes of that hearing, Minute Book 22/239-40.

The agent for the applicant in "paragraph 18 of his submission dated 21<sup>st</sup> August 2006 states:-

"That the applicant Tekeu Fremhein (aka Apai Mataiapo Tutara) seeks an Order of Revocation of Mikara and Taruia and their descendants under Section 450 of the Cook Islands Act 1915 on the lands listed in this submission ...."

The lands referred to are Maii 12E, in paragraph 6(i) and Raropua 190M referred to in paragraph 7 of the submissions.

Neither of those lands were referred to in the Succession order made on the 24<sup>th</sup> November 1954 and recorded at MB 22/239-40. In that application, the only land concerned was House Site 144 Avarua.

That should be sufficient for this Court to dismiss the application outright.

The Court believes however that it should look at the grounds relied upon by the applicant in case further applications are lodged.

The applicant relies upon a claim that there is no blood relationship between Mikara and Taruia for the deceased Apai Tururangi from whom they succeeded.

On the basis of the genealogy produced by the applicant as Exhibit 1 page 1 of his bundle of exhibits that would appear to be the case.

But, can that genealogy be accepted. Nowhere in the genealogy is there any reference to Court Minute Books or orders which could verify the lines of descent.



On the other hand, the genealogy produced to the Court at MB 22/239-40 when the order complained of was made shows that the learned Judge had verified the blood lines by reference to other matters dealt with by the Court.

The Court holds that the genealogy at MB 22/239 has the imprimatur of the Court and carries far more weight than that produced by the applicant.

As the applicant relies upon one ground only the absence of a blood line from Apai Tururangi to Mikara and Taruia, then if such blood line is established the case is at an end.

Both applicant and respondent accept that Apai Tururangi died without issue and the succession order was made in favour of the issue of his sister Konini. The applicant has endeavoured to establish that Konini in the above genealogy is not a child of Te Ariki Tokorangi and Mata, but at MB 19/117 a genealogy is given showing Mata as the mother of Ngamatama, Tururangi and Konini and that Mikara, Taruia and Toivaka (died without issue) were descendants of Konini.

The blood line is clear and irrevocable.

The application is dismissed. The question of costs is reserved.



**JUDGE**