

IN THE HIGH COURT OF KIRIBATI  
(BEFORE B SUTTILL C.)

HCLA 152/90

**BETWEEN:**        **KAOTINTETAAKE MATAIO**        **Appellant**  
**AND:**            **MATAI TOROTEE**                                **Respondent**

**J U D G M E N T**

The appellant and respondent are not present. Several attempts have been made to locate both parties and all have been unsuccessful.

The decision sought to be appealed was the distribution of a deceased estate in BA 236/90. The court there gave the money (an unstated amount) to the deceased's brother who was by then married to the deceased's wife, for the maintenance and education of the deceased's (then) 13 year old daughter. The applicant also cared for the deceased's mother.

The appellants by their notice of appeal claim to be children of the deceased and entitled to a share in the estate. The notice of appeal is by no means clear as to who are the appellants or how many of them there are.

The correct way of proceeding in this matter is to sue the applicant in the magistrates court for a share in the deceased's estate. Neither appellants nor respondent have done anything to prosecute their appeal since the notice was filed. This is an old case and the estate is by now probably used up. The appeal is dismissed for want of prosecution but, subject to the limitation period, the remedy above described remains open to the appellants.

  
**TEKAIE TENANORA**  
**MAGISTRATE**  
(31/1/96)



  
**BETERO KAITANGARE**  
**MAGISTRATE**  
(31/1/96)