

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

HCLA 85/1991

**BETWEEN:** MATERA TAWEREWERE Appellant  
**AND:** IENRAKU TABORA Respondent

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

Neither the applicant nor the respondent are present today. Efforts to locate them for the session at Abaokoro and today's hearing have failed.

The applicant, by notice dated 12 August 1991, seeks leave to appeal a decision of the magistrates dated 9 September 1988 in C/N 73/88.

The applicant is the son of Tawerewere whose estate was distributed in C/N 73/88.

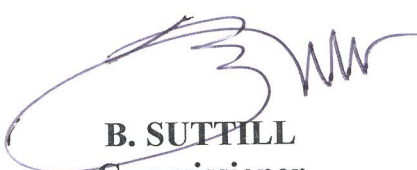
It is clear from the record that the court below made strenuous efforts to secure the attendance of the children of Tawerewere at the proceedings and only when those efforts failed did they proceed in their absence.


The applicant claims that he had no notice of the proceedings and hence his non-attendance.

Effectively then he is saying that he wasn't a party to the proceedings below. This is substantiated by the omission of his name from the family tree, which is one of his grievances.

As he was not a party to the proceedings below he cannot appeal the decision in them. As the appeal is therefore incompetent the applicant's presence here would not greatly increase his chances of being given leave to appeal, which leave is accordingly refused.

  
**Bitiare Ekeru**  
Magistrate  
(11/6/96)

  
**B. SUTTILL**  
Commissioner  
(11/6/1996)

  
**Tooki Kaake**  
Magistrate  
(11/6/96)

