

- b. Court Minutes of a hearing of 12 March 2023. In that case the applicants were Punaaiiki Togiama and Togatolu Togiama in regard to lands Pt Lalopua, Lakepa.

[4] I was also advised that service on the respondent was being completed.

[5] On Friday 8 November I emailed the Court seeking confirmation that I had all the documents that had been filed so I could proceed to make an urgent decision.

[6] On Saturday 9 November (Aotearoa New Zealand Time) I received an email with a letter from the respondent.

Decision

[7] This application clearly lacks evidence. There is no sworn affidavit setting out the evidence or statements the applicant relies on to support her application. There is no signed statement. There are no signed letters. There are no statements or letters from Leveki.

[8] The application states “To stop the burial on the land”. But there is no evidence or even a statement saying where the applicant thinks the burial will occur.

[9] There is not even evidence from the applicant that Mr Poiafita will be buried in Niue. That required evidence has now been provided by the respondent in a signed letter confirming that Mr Panama Fakalofa Poiafita will be buried within the section which is titled to their Magafaoa and not on the section where the applicant has interest.

[10] The applicant has filed a certificate of title for the land. The Court presumes that this is the land in question - but that is a guess given there is no evidence to say that the respondent will be buried on this land.

[11] Putting that issue to the side I note that the certificate of title for Part Lotouho, Lakepa records Leveki for Mougapa’s house as Togiakula and Leveki for Fuasea’s house as Konevele and Pulone. Evidence in the form of a statement from Togiakula or Konevele or

Pulone would have been helpful. The Court does not have any evidence from any of those Leveki.

[12] To order an injunction based on the information before the Court would require the Court to make a number of assumptions.

[13] Given the lack of evidence and the clear confirmation from the respondent that Mr Panama Fakalofa Poiafita will be buried within the section which is titled to their Magafaoa and not on the section where the applicant has interests, I dismiss the application.

[14] The application is dismissed.

Dated at Rotorua, Aotearoa New Zealand this 9th day of November 2024 (Aotearoa New Zealand Time).



C T Coxhead
CHIEF JUSTICE