

IN THE EFATE ISLAND COURT
HELD AT PORT VILA
(Civil Jurisdiction)

Civil. Case. No. 01 of 2009

BETWEEN: **PARAMOUNT [NASULIU] CHIEF**
MAATUIMAKATAMATA JOHN WILLIAM
MARAKI MATARIKI of Makatea Village,
Malsaimanu Custom Boundary, Shepherds Group,
Republic of Vanuatu
Claimant

AND: **RAYMOND CLAY**, of Namburu area, Port Vila,
Republic of Vanuatu
First Defendant

AND: **JAMES JERRY**, of Coffee area, Port Vila in the
Republic of Vanuatu.
Second Defendant

Coram: Justice Ann Carlo
Justice Tomson Andrew
Justice Sam Marpakoa

Clerk: Jona Mesao

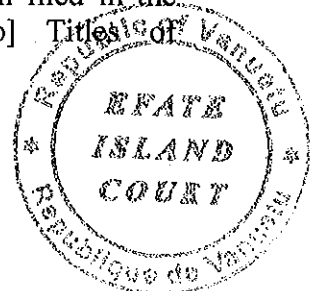
Date of Hearing: 19th October 2009.

Date of Decision: 30th October 2009.

JUDGMENT

Whereas on 20th October 2009, Claimant Paramount [Nasuliu] Chief Maatuimakatamata John William Maraki Matariki filed an application before this Court sought the following reliefs:

1. An Order that [*Civil Case No. 3 of 2009, Chief Raymond Clay Satongiamata v David Maripu / James Jerry Nambakaumata*] be dismissed on the basis that they do not have standing in accordance with custom of Shepherds Island including Emae to institute and or maintain a case founded on the head Chiefly Titles [Narewo Title] of "Satongiamata" and "Nambakau" which names are ordained by Paramount Nasuliu Chief Timakata from Makatea Village inside customary land boundary Malasaimanu, Emae Island.
2. An alternative Order that the Civil Case No. 3 of 2009 be stayed pending the hearing and full determination of the Claimant's substantive claim filed in the Shepherds Island Court claiming the head Chief [Narewo] Titles of "Satongiamata" and "Nambakau".

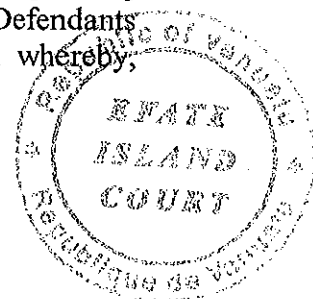


3. An Order that Raymond Clay and James Jerry, their family, servants, assignees and or agents be restrained from holding themselves out, representing themselves as or using the head Narewo Chief Titles "Satongiamata" and "Nambakau" respectively until full determination of the Claimant's substantive claim filed with the Shepherds Island Court.
4. An Order that Raymond Clay and James Jerry, their families, servants assignees and or agents be restrained from holding themselves out representing themselves and or using any and all property attached to the head Narewo Chief Titles of "Satongiamata" and "Nambakau" which Titles are Chief Titles held under the Paramount Nasuliu Chief Timakata with the Paramount Nasuliu Chief Timakata customary governing structure [Namarakiana] until hearing and full determination of the Claimant's substantive claim filed with the Shepherds Island Court.
5. An Order that in the even that any or all of these Orders are breached in any way whatsoever that such person be arrested by any Police Officers and be brought before the Court for Contempt of the Court Orders.

On the basis that, the Claimant has filed a substantive claim in the Shepherds Island Court claiming Chiefly Titles among which the Defendants assert that they are holders of such Titles of "Satongiamata" and "Nambakau". And the Court has yet to fully determine the Claimant's substantive claim. The Claimant also stated that, Defendants in accordance with custom of Shepherds Island including Emae are not the recognized holders of the head Narewo Chief Titles of "Satongiamata" and "Nambakau". The Defendants must first prove that they have been ordained holders of the head Narewo Chief Titles of "Satongiamata" and "Nambakau" in accordance with custom so as to have standing in custom to institute and maintain the proceedings in [*Civil Case No. 3 of 2009, Chief Raymond Clay Satongiamata v David Maripu / James Nambakaumata*]. The Claimant's case will be prejudiced and the Claimants position will be seriously disadvantaged if the Orders are not granted.

In response to the application made by Claimant, Defendants hunted that Order 1 be dismissed accordingly because it is misconceive and have no basis. Chiefly Title which Claimant claims as Paramount Chief Nasuliu, Chief Timakata of Makatea Village, Malsaimanu custom boundary was appealed and pending hearing before the Supreme Court. Also Defendants call before this honorable Court to dismissed interim Order 2, because Civil Case No. 3 of 2009, does not concern customary Chiefly Title, but it only concerned our ancestor's lineage which exist on Efate Island before ages. Therefore, Claimant has no standing to seek for a stayed Order.

Furthermore, we request the Court to dismissed Order 3, 4 and 5 as they are misconceived and not well founded under the customary principles. Chief Timakata has no customary right to interfere into the customary affairs of Chief Satongiamata and Chief Nambakaumata; as they are independent Chiefs within their respective areas. Defendants wish to confirm that, Paramount Nasuliu Chiefly Title Timakata is pending appeal and still waited for a final determination from the Supreme Court. Defendants believed that Chief Timakata has never; according to the rules of custom whereby,



ordained Chief Satongiamata and Chief Nambakaumata. Both Chiefs were regarded as Paramount Chief during the dark ages on Efate. Thus, we seek for this Court to dismiss Claimant's application as they were misleading.

Applicable of Laws

Section 8 of the Island Courts Act CAP 167 provides;

"The civil jurisdiction of an Island Court shall extend, subject to the provisions of this Act, to the hearing, trial and determination of all civil matters in which the defendant is ordinarily resident within the territorial jurisdiction of the Court or within which the cause of action shall have arisen provided that civil proceedings relating to land shall be taken in the Island Court within the territorial jurisdiction of which the land is situated"

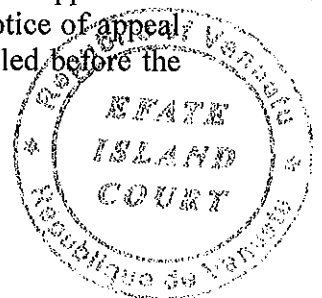
The Court is satisfied that, Defendants in these proceedings were all resident within the territorial jurisdiction of Efate. Section 6 of the Island Courts Act CAP 167 provides;

"Every Island Court shall have full jurisdiction to the extent set forth in its warrant and subject to the provisions of this Act, over causes and matters in which all the parties are resident or being within the territorial jurisdiction of the Court"

Upon hearing the Claimant, the Defendants, and upon considering the facts and responses, the Court hereby mentions the following. The Court is satisfied that they was a claim filed by the Claimant Paramount [Nasuliu] Chief Maatuimakatamata John William Maraki Matariki, in the Shepherds Island Court on 14th September 2009. The essence of the said claim was that, Claimant claimed that he is the Paramount [Nasuliu] Chief Maatuimakatamata, commonly referred to as Timakata of the Island of Emae in the Shepherds Islands. The Court discover upon evidences adduced before it that, in accordance with customary principles of Shepherds Island including Emae, the head Chiefly Titles [Narewo Titles] of Satongiamata and Nambakau were ordained by Paramount Nasuliu Chief Timakata from Makatea Village. Such statement was confirmed by the Supreme Court in Case No. 28 of 2009, [Chief Maatuimakata John William Maraki Matariki v John Michael / Shem Michael & 19 Others] and the Court makes the following Orders and Declaration;

"A Declaration that the Claimant in accordance with the recognized custom of the Shepherds Islands including Emae, is the true and rightful holder of the Paramount Chiefly Title Timakata / Maa Tui Makata-Mata"

Therefore, the Court is satisfied that, in [Civil Case No. 2 of 2009, Paramount [Nasuliu] Chief Maatuimakatamata John William Maraki Matariki v Raymond Clay & James Jerry] do have some standing issues to be dealt with, before the final customary determination of [Civil Case No. 3 of 2009, Chief Raymond Satongiamata v Chief Maripu David Roy & Chief Jerry Napakaumata]. The Court is also mindful that, the declaration made by the Supreme Court on 23rd day of December 2004 is appeal and pending its full determination. The Court is also satisfy that, they was a notice of appeal dated 31st of December 2004 made by the Defendants counsel and was filed before the Supreme Court on 4th August 2005, is also pending hearing.



However; **HAVING** being satisfied, the Court hereby makes the following Orders;

ORDERS

1. That Civil Case No. 3 of 2009 be stayed accordingly pending the full determination of Civil Case No. 2 of 2009 by Shepherds Island Court.
2. That Raymond Clay and James Jerry, their family, servants, relatives or agents be restrained from holding themselves out representing themselves as or using the Chiefly Title name Satongiamata and Nambakaumata respectively until the determination of Civil Case No. 2 of 2009.
3. That Raymond Clay and James Jerry, their families, servants, relatives or agents be restrained from holding themselves out representing themselves and or using any and all property attached to Chiefly Title Satongiamata and Nambakaumata until the final determination of Civil Case No. 2 of 2009.
4. That both parties their family, servants, relatives or agents shall maintain peace, harmony and good order within themselves at all times.
5. A copy of this Order shall be served upon the Commissioner of Police and Officer in charge of Tongoa Police Patrol.
6. In any event that Orders 2, 3 and 4 were breached in any way whatsoever such person may be arrested by the Police and be brought before the Court for Contempt of the Court Orders.
7. The matter in [Civil Case No. 2 of 2009] is set down for hearing on 11th January 2010 at Tongamea Village, Emae Island at 8.30am.

Dated at Port Vila, this, 30th Day of October 2009.



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Sam

Justice Sam Marpakoa

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Ann Carlo

Justice Ann Carlo

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Tomson Andrew

Justice Tomson Andrew