

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

CA NO. 9/2000

IN THE MATTER of Sections 448 and
450 of the Cook Islands
Act 1915

AND

IN THE MATTER of the land known as
VAIKAWOA SECTION
89H AROBANGI,
RAROTONGA

AND

IN THE MATTER of an application by
KEU AND TEARIKI
MATAROA

Appellant

Coram: Greig CJ
Henry J
Hingston J

Mr Perkins assisted by Mr Hakaoro for Appellant

Mrs Browne for Respondents

Date of Hearing: *Mon 12. 11. 2001*

Date of Decision: *Mon 12. 11. 2001*

JUDGMENT OF THE COURT OF APPEAL
Delivered by Hingston J

The appellant requested especially under Article 60 (3) of the Constitution. It is necessary for the Court to be satisfied that there are proper grounds for granting relief from the failure to meet statutory time limit for appeal. The Appellant argued that the Court below had proceeded upon an incorrect interpretation on the Maeva Judgment. We do not agree this was so and adopt respondent counsel's submission at paragraph 14 when she analysed the legal principles in Maeva. We believe the Court did correctly apply these

principles. We find the appellant was not entitled as of right to succeed to Keu Mataroa.

Relating to the question of genealogy. The appellant's case relies upon the genealogy at page 54 of the record. Counsel submitted that this was made up from the genealogy record in this Court. We do not agree. The genealogy at Minute Book 3/62 and 9/4 clearly show that Matai was a son of Makona and Poko or Teupoko. There is no evidence supporting the appellant's contention that Makona was the same person as Tekeu Mataroa.

Moving finally to the evidence when Teao Mataroa adopted Mataroa Iti. We do not accept the appellant's interpretation that there were three persons whose evidence was recorded.

As the Court below made a finding of fact on this we are not persuaded that we should depart from that finding. The Appellant's final submission was that the evidence given at the adoption hearing was sufficient to complete the adoption even if there was no blood tie between the foster parents and the adoptee. We are not persuaded that the evidence in this matter is sufficient to establish a complete adoption.

For the reasons set out above the application for special leave to appeal is refused.


CHIEF JUSTICE