

IN THE HIGH COURT OF THE COOK ISLANDS
HELD AT AITUTUKI

No. 345/93 and 346/93

IN THE MATTER of an application for
succession by **MATAVEVE**
TOKA

JUDGMENT OF DILLON J.

This is an application by Mataveve Toka to succeed to Te Pakera Section 26 and Moana Uiruri Section 302. Temata Maitoe objects to the application. The evidence presented by the applicant referred to Simiona and Teaka, both of whom were feeding children of Naku. They were not adopted. Teaka's father is Teata and the mother is Mautia, although Simiona is still under his natural parents according to the evidence that was provided. The question of feeding children, and indeed adopted children, raises important issues as far as succession is concerned. In the course of providing evidence which is now being recorded, Teaka explained that the extended family of Naku had not accepted Simiona as one of their own children. It was explained that Simiona "... went to his wife without my father's consent". In further evidence it was made clear that the opposition from the Naku family was because of the adoption, although not legal and not recognised by the family.

It is clear on the evidence, limited as it was, that there was insufficient evidence to support the application for succession. In addition there is the objection by Maitoe. There is also the admission by the applicant of non-acceptance of Simiona.

All in all it is not possible on the evidence presented to the Court to grant the Succession Order based on the evidence presented and the circumstances detailed. The application is therefore dismissed.

There may of course be other evidence which the applicant has not presented to the Court which at a subsequent hearing may very well support an Application for Succession. Based on the evidence presented on this occasion however, it is quite impossible to grant any Application for Succession as now applied for.



Dillon J.

2/2/95.