

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

APPLICATION NO. 275/03

TEPATANGATA O TONGAREVA

KELLY

Applicant

Mr Tepatangata o Tongareva, applicant

Ms Imogen Ingram for applicant

Tereapii Strickland to oppose

Date of Hearing: 1 September 2003

DECISION OF SMITH J

This is an application to succeed to Vaevae in the land Vaikere Section 190P2B.

The objector claims that the Vaevae on the title is not the Vaevae to which the applicant seeks to succeed.

In support of the application Ms Ingram produced a genealogy claiming Vaevae as natural child of Tua Tapaeru and George Kelly and claims he was adopted by Mere and Taupini and Tamarua.

There does not appear from the genealogy produced any direct line from the ancestors of Iva Tua Tapaeru and either Mere or Taupini.

By way of assistance Ms Ingram referred the Court to MB 52/102-104. A perusal of those pages reveals two references to Vaevae. At page 102, a question to Mr Eric Browne the witness,

"Mr Browne, you recall whether the share of Vaevae who is also a landowner on the land, do you recall whether his share was discussed?"

Answer

"The family agreed that the interest of Vaevae be left in the title because they do not know who is going to succeed to the interest of Vaevae."

At page 104, the only reference to Vaevae is a question;

"Are you aware that Vaevae Tamarua has a registered adopted child?"

Answer

"No."

Reply

"I don't have the reference before me, but there is evidence in the Court records about an adoption."

These references do nothing to advance the claim of the applicant in this present application. The genealogy produced does not show any issue for Vaevae. If however there was an adopted child who came through the blood line, then the claim by the within applicant is placed further in jeopardy.

3.

This Court is unable to determine this matter either way on the evidence currently before it.

The application is adjourned to the next Court to enable the applicant to adduce further evidence in genealogy.

Dated this 9th day of September 2003.


JUDGE