

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

[Land 4/2008]

Application No. 4/2010

IN THE MATTER of Section 390A of the Cook Islands
Act 1915

AND

IN THE MATTER of the land known as **AREMANGO**
Section 7B1B Ngatangia

AND

IN THE MATTER of an Application by **LESTER
PAPER**A for a rehearing
Applicant

AND

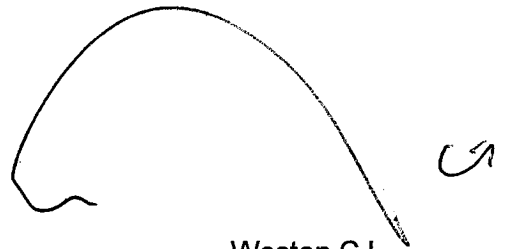
IN THE MATTER of **SALLY PAPER**A **HOSKING**
Respondent

JUDGMENT OF THE CHIEF JUSTICE AS TO COSTS

- [1] In September 2010 the applicant brought this application for rehearing. The procedural history of the matter is recorded in a subsequent Minute that I issued dated 21 January 2011.
- [2] On 4 March 2011 I directed that the Land Division of the Court prepare a report for my consideration. That reflected my assessment that there was a prima facie case for investigation.
- [3] On 12 October 2011 Mr Petero, who was now acting for the applicant, withdrew the application. That was in the context that he wished to pursue an application under section 391, Cook Islands Act 1915 which related to the same piece of land. That application was heard on 28 February 2012 and in a Judgment issued in June the application was dismissed. Isaac J, who determined the section 391 application, has addressed costs (Judgment dated 27 July 2012).

- [4] Costs submissions have been filed in the present application. Mrs Browne, on behalf of the respondent filed hers on 24 May 2012. She sought indemnity costs of \$3,125.75.
- [5] Mr Petero filed submissions in reply on 13 June 2012. Amongst other things he argued:
- the application was filed because of errors in the register of title which were not apparent to anyone at the point the application was filed;
 - the matters raised in the section 390A application were essentially the same as those subsequently considered in the section 391 application and there was no need to undertake much fresh work;
 - the applicant acted responsibly in discontinuing the section 390A application once it was learned that the register was incorrect as above.
- [6] I am satisfied that the matters raised by Mr Petero are of substance. I have considered the Costs Judgment of Isaac J and I am satisfied that it sufficiently addresses costs such that there is no need to make an order in the instant case. Accordingly, I direct that the parties bear their own costs.

Dated 10 August 2012 (NZT)



Weston CJ