

**IN THE HIGH COURT OF
NIUE (LAND DIVISION)**

Application No. 9887

IN THE MATTER of Part Kauhi Avatele District

BETWEEN Tukitoga Ugamea

Applicant

AND Timber Folekene

Applicant

Decision

Background

- [1] An exparte application to discuss an injunction dated 28 August 2008 was filed with the Niue High Court on 20 November 2008 by Timber Folekene.
- [2] The injunction of 28 November 2008 prohibited Timber Folekene or any other person from dealing with this land until the applications to determine title and appoint leveki for this land are determined.
- [3] During the recent November 2008 sitting of the High Court the applications were considered, a site visit was carried out and a conference of all the parties convened. The issues were not resolved although certain options were presented to the parties for consideration by wider family groups.
- [4] Mr Folekene now seeks to have the injunction discharged as he is prevented from cleaning the property of overgrowing vegetation, and other works that were being planned to renovate the building on this property.
- [5] Mr Tukitoga Ugamea has opposed the dismissal of the injunction.

Discussion

- [6] The injunction was issued until the land issues were settled. They were issued against Timber Folekene and any other person. This also means the injunction prevents Mr Tukitoga Ugamea from entering this property.
- [7] As stated the land issues have not been resolved in respect to this property and as this was the basis for the injunction being granted in the first not much has changed.
- [8] As a result, I see no need to dismiss it. The injunction will remain until these parties have resolved the land issue between them.

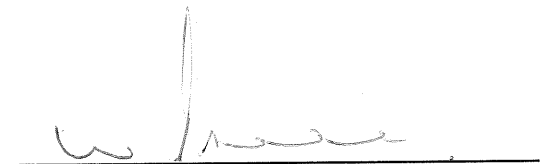
[9] The injunction is to be modified to read that Timber Folekene or his agent is permitted to enter this land for the purpose of maintaining it and clearing the weeds. No other person is to enter the land and no building is to be carried out on the land by any persons.

[10] A copy of this Decision is to be sent to all parties.

Dated the

23rd day of December

2008

A handwritten signature in cursive script, appearing to read "Wilson Isaac", is written above a solid horizontal line.

JUDGE WILSON ISAAC