

BETWEEN: JOSEPH LUEN
Applicant

AND: JOHN JACK LUEN
Respondent

Date of Hearing: Tuesday 15th day of May, 2018 at 2:00 PM

Date of Decision : Tuesday 15th day of May, 2018 at 4:30 PM

Before: Justice Metoloa Silou Poilapa (Presiding Justice)
Justice Lutu Sakita (Member)
Justice Roy Tining (Member)

Island Court Clerks : Alida Tchivi & Nailyn Abel

In Attendance: Joseph Luen (Applicant)
John Jack Luen in person (Respondent)
Samuel Bruce Jovinmal (Applicant's Spokesperson)
Joseph Dick Manamuri (Respondent's Spokesperson)

Ataviru Obed (Applicant's Witness)
Jack Timakurimata (Applicant's Witness)
Manapatir Alick (Applicant's Witness)

Maserongolei David Pakoa (Applicant's Witness)
John Lee Solomon Maraktibining (Respondent's Witness)
Ataimat Esau Charlie (Respondent's Witness)
Vainah Berry (Respondent's Witness)

In Absence : Nanupop Obed Toara (Applicant's Witness)
Mariketawu Jimmy Kalo (Applicant's Witness)

COURT DECISIONS

An application has been filed on Wednesday 8th November 2017 at 11:32 am before this court by Joseph Luen, the Applicant. The Applicant sought an order for Declaration of Custom Ownership over the Chiefly Title "Tarinuamata".



Section 10 of the Island Court Act provides that "Customary matters and beliefs prevailing in a territorial Court area applicable in the Court, so far as they are not in conflict with the written law and is not contrary to Justice, morality and good order".

Both parties were noticed and served directly. This matter was supported in open court today the 15th day of May, 2018. Both parties appeared in Court at the time and date of hearing when called.

Having heard and considered the statements made by both parties, this court is satisfied and hereby declared that the Chiefly Title name "Tarinuamata" is originated from the Island of Buninga in the Shepherds Group, Shefa Province.

It is now becomes clear that the dispute of chiefly title "Tarinuamata", filed and registered as Case no. 17/3283 IC/DCLR is outside the Jurisdiction of Efate Island Court.

The statement of claim must be filed at the office of the Island Court within whose jurisdiction the customary matter is about and is situated.

The claim must be a claim which is stated by the warrant of jurisdiction of that Island Court to be within the jurisdiction of that Court to hear and determine.

Therefore, this Court hereby makes the following order:

1. Case no. 17/3283 IC/DCLR is struck-out within the registry of Efate Island Court;
2. This Court directs all parties to file this matter of Chiefly Title "Tarinuamata" in the Tongoa/Shepherds Island Court Jurisdiction, as a new claim;
3. No order as to Cost;
4. Parties have a right to appeal from that decision to the Magistrate's Court within 30 days.

DATED at Port Vila this 15th day of May, 2018.

BY THE COURT



Justice Lutu Sakita
(Member)



Justice Meteloa Silou Poulapa
(Presiding Justice)



Justice Roy Tining
(Member)