

IN THE MATTER OF: KASTOM DEKLERESEN BLONG STRET
DESCENDENTS MO TRUE BLOODLINE
BLONG LATE PARAMOUNT CHIEF
MASUPE TAONAKI (I) BLONG SUNAE
CUSTOMARY LAND BOUNDARY, MOSO,
EFATE OFFSHORE ISLAND.

AND

IN THE MATTER OF: SECTION 10 BLONG AELAN KOT ACT
CAP. [167] MO ARTICLE 95 (3) LONG
KONSTITUSEN BLONG VANUATU BLONG
YEAR 1980.

BETWEEN: SANDY JOHN MANASAKAU
Claimant

AND: JIMMY MEAMEADOLA
Defendant

Date of Hearing: 19/11/2018 to 22/11/2018 – Time : 8:30 am to 16:30 pm
Date of Judgement: Monday 25th March, 2019 – Time : 2:30 pm
Venue: Efate Island Court – Court-Room, Joint-Court Onto, Port-Vila
Before: Justice Daniel FRANK (Presiding Justice)
Justice Harry JOSHUA (Member)
Justice Eddie KARIS (Member)

Island Court Clerk: Alida ALAIN

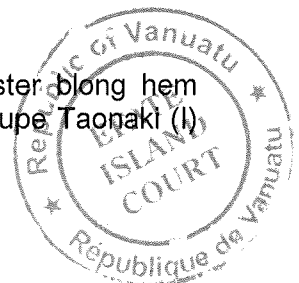
In Presence: All Parties

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JUDGMENT

Sandy John Manasakau hemi filem claim ie kam long Island Court long date ia Monday 29th August 2016 mo hemi askem court blong mekem tufala declaration ia folem loa mo kastom blong Efate se:

1. Sandy John Manasakau (III) hemi stret descendants blong fes paramaount chief ia Masupe Taonaki (I) blong Sunae Kastomary Land;
2. Olgeta Descendants we ie kamaot long women ia 'Silaey Manasakau' mo sister blong hem 'Mimah Manasakau' oli true kastom bloodline blong fes Paramount Chief ia 'Masupe Taonaki (I)' blong Sunae Kastomary Land hemia long Moso Island.



APPLIKESAN BLONG LOA:

KONSTITUSEN BLONG RIPABLIK BLONG VANUATU – Japta 8 - Article 52 ‘Oi Vilij Kot mo Aelan Kot: Palemen bambae i mekem ol loa blong stanemap ol velej kot mo aelan kot we bambae oli gat paoa blong jajem ol keis long saed blong kastom wetem sam narafala keis tu mo bambae Palemen i mekem rod blong ol jif oli wok long ol kot ia tu.

ISLAND COURT ACT CAP [167]: Section 10 ‘Application of Customary Law’: Subject to the provisions of this Act an island court shall administer the customary law prevailing within the territorial jurisdiction of the court so far as the same is not in conflict with any written law and is not contrary to justice, morality and good order.

Island Court hemi gat power blong administerem ol matter blong custom follem Section 10 blong Island Court Act Cap 167 mo Article 95(3) long Constitution blong year 1980 hemi talem se ‘Long dei we Repablik blong Vanuatu i kam independen, ol loa blong kastom bambae oli gohed blong gat paoa mo bambae oli kam pat blong loa blong Ripablik blong Vanuatu.’

Long matter blong Section 10 blong Efate Island Court ACT [CAP 167] mo hemi matter blong kastom declaration blong true descendants mo true bloodline blong late Paramount Chief Masupe Taonaki (I) blong Sunae Customary Land Boundary, Moso, Efate Offshore Island.

STATEMENT BLONG CLAIMANT

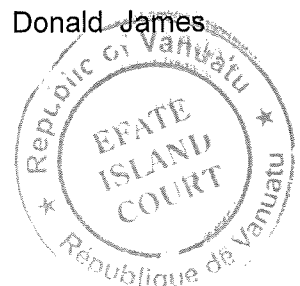
Claimant hemi statem long statement blong hem se Masupe Taonaki (I) hemi fes paramount chief blong Sunae Kastomary Land. Farea blong hem hemi Telekapu. Malala blong chief ia nem blong hem Maladaki. Masupe Taonaki (I) hemi gat two pikinini boe; fes bon nem blong hem Mansavia mo second bon nem blong hem Maratava.

Fes bon Manasavia hemi tekem wan woman Telekapu wei nem blong em Turitalo, tufala ie live tugeta be tufala nogat pikinini mo tufala ie ted. Second bon Maratava hem ie tekem wan woman Telekapu wei nem blong hem Leinear. Leinear hemi Naflak Yam. Tufala ie bonem wan boy nem blong hem Jack Kalsav.

Jack Kalsav hemi tekem wan woman Siwo (wan olfala viliji behind long Moso) wei nem blong hem Tourisu. Tourisu hemi Naflak Stone. Taem Jack Kalsav ie tekem Tourisu, Tourisu hemi gat bel finis blong wan different man we ie kamaot long Siwo, mo nem blong man ia Kaltabang. Taem Tourisu ie bonem fes bon pikinini ia, hemi wan kel mo tufala ie putum nem blong hem Silaei wei long langwis blong Moso, Silaei ie meanim help. Afta long hemia, Tourisu mo Jack Kalsav ie gat wan moa pikinini kel bageken we hemia nao stret pikinini blong tufala tru long blood, mo tufala ie putum nem blong hem Mimah.

Silaei hemi maretem Jif Philip Masesongi blong Fareaalapa Vilij, Nguna Island mo tufala ie gat two pikinini we fes bon nem blong hem Tousongi mo seken bon nem blong hem James Aromalo.

James Aromalo hemi maret wetem Leisongi blong Tanoliu vilij mo tufala ie bonem Donald James Aromalo.



Seken bon Mimah hemi maret wetem Jif Kalosik Taripoamata blong Siviri mo tufala ie bonem wan kel wei nem blong hem Rosbelle. Rosbelle hemi maret wetem John Kaltaupa blong Moso Island mo tufala ie bonem Chief Sandy John Manasakau (III) wei hemi claimant long case ia.

Furthermore long statement blong claim, Sandy John Manasakau hemi statemaot long kot olgeta bullets points below which kot ia hemi no considerem tumas from claim wei ie stap long kot nowia hemi no concernem dispute blong 'chiefly title':

1. Olsem wannem Paramount Chief ia hemi serem ol land mo bestowem Paramount Chiefly Title blong hem Masupetaonaki (I) long fes bon son blong hem
2. Olsem wannem traetol ia Masupe Taonaki (I) i nomo save exist tede
3. Olsem wannem Paramount Chiefly Title ia Manasakau i nomo exist about 72 years stat long 1933 – 2005
4. Olsem wannem ol narafala chief oli exist kasem tede
5. Samfala evidence long taem blong leadership blong Paramount Chief Jack Kalsav Manasakau

Claimant hemi presentem claim blong hem mo hemi attachem long sworn statement blong hem some annexures concernem olgeta five bullet points antap ia blong sapotem olgeta statement blong hem.

Court hemi harem claim wei ie stap mo after we court ie deal wetem first claimant, court hemi proceed blong hearem olgeta witnesses blong Sandy John Manasakau.

Claimant ie gat three (3) witnesses:

1. Witness Chief Edward Matokoale
2. Witness Chief Kalori Matongolulu
3. Witness Jimmy Ataf Naru

WITNESS NO.1 BLONG CLAIMANT: CHIEF EDWARD MATOKOALE

Witness Edward Matokoale ie tekem oath blong hem mo hemi testify hem wan blong sapotem witness sworn statement blong hem. Witness ie talem se hemi bon long 7th February 1942 long Sunae vilij hemia long Moso Island mo papa blong hem nem blong hem Tony Kalorisatavmarata wei hemi stret brother blong Tourisu, waef blong Paramount Chief Jack Kalsav Manasakau (II). Witness hemi talem long court ia se papa blong hem ie talem long hem se long year 1920 taem we oli out long ples blong olgeta long Siwo, oli kam stap live long Sunae Village, oli stap under long leadership blong stret tawian blong hem (Tony Kalorisatavmarata) wei hemi Paramount Chief Jack Kalsav Manasakau (II) from hem nao, papa blong hem Chief Maratava Manasakau (I) hemi bin replacem brata blong hem Paramount Chief ia Masupe Taonaki taem hemi ded. Witness ie talemaot long court se papa blong hem ie talem long hem tu se, hem (Tony Kalorisatavmarata) mama, ol brothers mo sisters blong hem, oli eye witness from olgeta oli stap long Sunae Village taem Paramount Chief Jack Kalsav Manasakau (II) hemi sendem ol village police blong hem long 1928 oli ko tekemout ol pipol Udaone (Samoa Point) oli kam stap live long Sunae Village (See Evidence No. 4 Mark H long sworn statement blong claimant).

WITNESS NO.2 BLONG CLAIMANT: CHIEF KALORI MATONGOLULU

Witness 'Kalori Matongolulu' ie tekem oath blong hem mo hemi testify hem wan blong sapotem witness sworn statement blong hem. Witness ie talem se hemi bon long 6th April 1945 long Sunae vilij Moso Island mo mama blong hem nem blong hem Isabel mo papa blong hem nem blong hem Kalmak Marakinawota. Papa blong hem hemi stret brata blong Tourisu, wife blong Chief Jack Kalsav Manasakau (II). Witness ie talem se papa blong hem (Kalmak Marakinawota) hemi talem long hem se, taem oli out long Siwo oli kam long Sunae, oli stap under long leadership blong Paramount Chief Jack Kalsav



Manasakau (II) mo continue blong talem se, oli stap finis long Sunae Village bifo paramount Chief Jack Kalsav Manasakau (II) hemi koperformem wan ordination kastom ceremony long Siviri village long 1927 (See Evidence No. 3 Mark G long sworn statement blong claimant). Follem ol toktok blong witness, mo evidence (No. 3 Mark G), Kalori Matongolulu ie sapotem strong statement blong claim blong Chief Sandy John Mansakau (III) se, olgeta toktok we oli stap insaed long statement blong claim blong claimant (Chief Sandy John Manasakau (III) oli true everywan.

WITNESS NO.3 BLONG CLAIMANT: JIMMY ATAF NARU

Witness 'Jimmy Ataf Naru' ie tekem oath blong hem mo hemi testify hem wan blong sapotem statement blong hem. Witness ie talem se hemi blong Moso Island, we nowia hemi stap live long Malafau Village. Witness ie bon long date ia 27th February, 1952 long Siviri Village, North-Efate. Mama blong hem nem blong hem Leinasei Morris mo papa blong hem hemi Jif Morris Manaruru. Farea blong hem, nem blong hem 'Fareani Likita' we i stap long Jurisdiction blong Paramount Jif 'Masube Taonaki' blong Sunae Village, Moso Island. Witness ie talem se papa blong hem ie bin talem long hem se Paramount Jif blong Sunae Village, Moso Island, hemi Jif 'Taonaki'. Taem we Taonaki i ted, ol people oli putumap Jif Manasakau i kam Paramount Jif blong Sunae Village. Long year 1928, ol people blong Utaone Village, Samoa Point oli stap ted. Jif Manasakau i givim ota long polis blong hem blong tekem people ia i kam long Sunae mo oli kam people blong hem. Long taem ia, Jif Topi Manaruru tu i stap olsem wan Jif we iko blong tekem ol people blong Utaone. Long wan taem, Jif Daniel Popovi blong Tanoliu Village hemi talem long Jimmy Ataf Naru se hemi bin luk we papa blong papa blong witness (Jimmy Ataf Naru) Jif Top Manaruru i kam wetem ol polis blong Jif Manasakau i kam long Utaone blong tekem ol people ie ko long Sunae. Daniel Popovi ie talem long witness Jimmy Ataf Naru tu se from wannem i happen long taem ia, hemi kam blong singaotem papa blong witness, Jif Morris Manaruru 'Brother blong hem'. Follem olgeta risen ia, Jimmy Ataf Naru ie stap olsem wan witness blong sapotem strong claim blong Sandy John Manasakau (III).

STATEMENT BLONG DEFENDANT: JIMMY MEAMEADOLA

Long defence statement blong defendant, hemi introdusim hem olsem Chief Jimmy Meameadola wei ie bin ordain olsem Chief Meameadola long Sunae Village by North-Efate Chief long year 1994 long wan public ordination ceremony we olgeta people blong Sunae oli witnessem.

Long first statement blong Jimmy Meameadola, hemi definem meaning blong 'BLOODLINE' wei hemi tekemaot long wan English dictionary se: ***"members admitted to a family or group in any given race, descent, parentage and includes new blood or new members"***.

Defendant ie se long custom, ol olfala oli stap yusum toktok ia se 'blood blong mi ia' ie meanim se hemi wan relative blong hem.

Jimmy Meameadola ie talem se bae yumi notisim se main criteria blong wan person hemi save be recognised olsem wan bloodline hemi clear long tree samting nomo:

1. Hemi through blood either follem Papa (Paternal) or Mama (Maternal) mo
2. Hemi iko back follem family blad line ie iko back kasem original person ia
3. Wan clear line blong family tree from Claimant iko link wetem Original Ancestor blong hem.

Long olgeta second half toktok blong defendant, Jimmy Meameadola ie talem se 'Mi **sorry blong talemaot long tis Honourable Kot se hemi wan misleading claim mo hemi mekem wan fabrication long family tree blong hem, in other words hemi wan false claim from hemi nogat eni link nating**



either long descendants blong Papa blong hem or even Mama blong hem long iko back kasem Paramount Jif Masupe Taonaki. Defendant hemi stap refer long claim mo family tree blong claimant.

Long defence statement blong defendant wei ie filem ie kam long court, hemi statemaot ol bigfala stamba thinkthink long smol background mo concern blong hem long olgeta points ia:

1. History blong Marik Supedaonaki hemi property blong Jif Meameadola and Descendants;
2. True Bloodline mo Descendants blong Marik Supedaonaki;
3. Conflict between two lawfull Jurisdiction.

Long defence sworn statement ia, defendant hemi attachem some supporting documents mo wan long olgeta document ia hemi **Annexure JM1** blong sapotem olgeta defence statement blong hem we ie kam long court ia. Annexure JM1 hemi wan decision blong ***Siviri and Tanoliu Joint-Village Customary Land Tribunal decision long case no.1 of 2005.***

Court hemi hearem defence statement blong defendant mo after we court ie deal wetem defendant, court hemi proceed blong hearem olgeta witnesses blong Jimmy Meameadola.

Defendant Jimmy Meameadola hemi gat five (5) witnesses:

1. Chief Kalulu Tariipoawia
2. Chief Kalmele Matuele
3. Chief Edwin Maseiwia
4. Chief Wilson Popovi
5. Chief Alick Simon Matapu

WITNESS NAMBA 1 BLONG DEFENDANT: CHIEF KALULU TARIPOAWIA

Witness 'Chief Kalulu Tariipoawia' ie tekem oath blong hem mo hemi testify hem wan blong sapotem witness sworn statement blong hem. Witness ie talem se hem ie blong Moso Island, mo hemi bon long date ia 14 July 1945. Witness Kalulu Tariipoawia ie talem se hemi stret uncle blong Defendant Jimmy Meameadola. Witness ie kam blong confirmem family tree blong defendant se hemi true.

WITNESS NAMBA 2 BLONG DEFENDANT: CHIEF KALMELE MATUELE

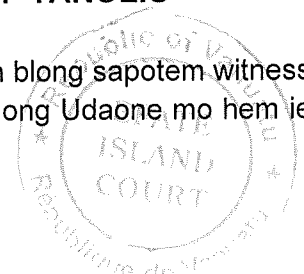
Witness 'Chief Kalmele Matuele' ie tekem oath blong hem mo hemi testify hem wan blong sapotem witness sworn statement blong hem. Witness ie talem se hem ie blong Sunae Village hemia long Moso Island mo hem ie bon long year 1961. Witness ie wan brother blong defendant Jimmy Meameadola. Witness ie kam blong confirmem family tree blong defendant se hemi true.

WITNESS NAMBA 3 BLONG DEFENDANT: CHIEF EDWIN MASEIWIA OF SIVIRI

Witness 'Chief Edwin Maseiwai' ie tekem oath blong hem mo hemi testify hem wan blong sapotem witness sworn statement blong hem. Witness ie talem se hem ie blong Siviri Village mo hem ie bon long date ia 26 October 1945. Witness ia ie wan uncle blong defendant Jimmy Meameadola. Witness ie kam blong confirmem family tree blong defendant se hemi true.

WITNESS NAMBA 4 BLONG DEFENDANT: CHIEF WILSON POPOVI OF TANOLIU

Witness 'Chief Wilson Popovi' ie tekem oath blong hem mo hemi testify hem wan blong sapotem witness sworn statement blong hem. Witness ie talem se hem ie blong Tanoliu Village long Udaone mo hem ie



bon long date ia 12 August 1954. Witness ie wan stret cousin brother blong defendant Jimmy Meameadola. Witness ie kam blong confirmem family tree blong defendant se hemi true.

WITNESS NAMBA 5 BLONG DEFENDANT: CHIEF ALICK SIMON MATAPU

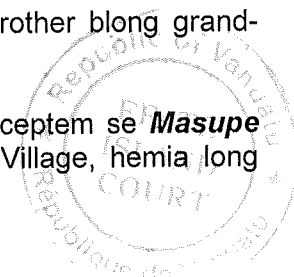
Witness 'Chief Alick Simon Matapu' ie tekem oath blong hem mo hemi testify hem wan blong sapotem witness sworn statement blong hem. Witness ie talem se hem ie blong Tongoa Island mo hem ie bon long date ia 21 July 1940. Witness ia ie talem se toktok blong Defendant sei Kalsav Manasakau hemi non blong Moso, hemia hemi wan true toktok. Kalsav Manasakau hemi blong Tongoa from hem (witness Chief Alick Simon Matapu) ie stret bloodline blong Kalsav, wetem woman blong hem Leiwia.

FINDINGS BLONG KOT

Afta wei court ie **readim, hearem mo considerem** every statement mo ol documents blong ol parties mo every witness blong olketa;

Mo bageken, afta we court ie **cross-examinem** every parties mo every witness blong olketa, findings blong court hemi olsem:

1. Claimant hemi mekem claim blong hem follem matrilineal or laen blong woman.
2. Defendant hemi wan native blong Futuna Island. Papa blong hem, name blong hem John Tapasei mo mama blong hem name blong hem Etha wei hemi sister blong Alickau, native blong Moso Island.
3. Court hemi faenemaot se long family tree blong defendant, hemi no showem name blong mania 'Alikau' blong pruvumaot long court family link we hemi gat wetem.
4. Court hemi faenemaot se long defence statement blong Jimmy Meameadola, hemi statem ie klia long page two (2), paragraph 5, second sentence se **'...mo todei mi stap olsem Jif Jimmy Meameadola 3.....Meameadola 1 kasem mi tudei mi Jif Meameadola 3'**. Court ie wandem pointemaot se statement ia hemi contradictem family tree blong defendant hemwan wei long family tree, hemi putum se **'Chief Jimmy Meameadola (IV)**.
5. Court ie faenemaot se defendant Jimmy Meameadola hemi no save se hemi stap holem chiefly title 'Meameadola 3' or 'Meameadola 4'.
6. Before ordination blong Jimmy Meameadola, everyman oli save long hem long name ia 'Jimmy Tapasei'.
7. Jimmy Tapasei hemi ordained long chiefly title name ia Meameadola long year 1994 follem customary right we stret uncle blong hem 'Jerry Matapau Meameadola' ie givim long hem blong exercisem.
8. Tufala parties ie no disputem tufala chiefly title we tufala ie holem 'Manasakau' blong claimant mo 'Meameadola' blong defendant.
9. Tufala parties ie related long blood tru long papa blong claimant wei ie brother blong grandmother blong Defendant wei hemi Dousande.
10. Tufala parties mo every witnessses blong tufala, everywan oli akri mo acceptem se **Masupe Taonaki** or **Marik Masupe Taonaki** hemi Paramount Chief blong Sunae Village, hemia long Moso Island.



11. Tufala parties mo every witnesses blong tufala ie no save pruvumaot long court sapos Chief **Masupe Taonaki** or **Marik Masupe Taonaki** hemi gat woman or non, mo sapos Chief **Masupe Taonaki** or **Marik Masupe Taonaki** hemi gat pikinini or nogat.
12. Tufala parties mo every witnesses blong tufala ie no save pruvumaot long court ia bloodline link blong tufala parties wei ie connect stret long Chief **Masupe Taonaki** or **Marik Masupe Taonaki**.
13. Court ie faenemaot se long Sunae Village, Moso Island, oli gat fulap chiefs wei oli stap lukaotem people.
14. Court hemi faenemaot se **Masupe Taonaki** or **Marik Masupe Taonaki** hemi Paramount Chief blong Sunae Village, Moso Island long time blong before but since wei hemi ted, Sunae Village - Moso Island ie nogat wan Declare Paramount Chief long name ia **Masupe Taonaki** or **Marik Masupe Taonaki** kasem today.
15. Court hemi faenem ie hard blong identifiaem mo determinem se who ia stret long tufala parties ia 'Sandy John Manasakau' mo 'Jimmy Meameadola' se ie stret bloodline mo descendants blong Paramount Chief **Masupe Taonaki** or **Marik Masupe Taonaki**.

Afta wei court ia hemi faenemaot olgeta findings blong hem, court ia hemi satisfiaem bigwan mo stap long wan gudfala position blong mekem decision long claim wei ie stap se:


1. *Sandy John Manasakau (III) hemi stret descendants blong fes paramaount chief ia Masupe Taonaki (I) blong Sunae Kastomary Land;*
2. *Olgeta Descendants we ie kamaot long women ia 'Silaey Manasakau' mo sister blong hem 'Mimah Manasakau' oli true kastom bloodline blong fes Paramount Chief ia 'Masupe Taonaki (I) blong Sunae Kastomary Land hemia long Moso Island.*

DECISIONS BLONG COURT:


1. Efate Island Court ie dismissim tufala applications wei Claimant John Sandy Manasakau ie filem ie kam long court ia.
2. I nogat oda long cost.
3. Tufala parti i gat 30 deis blong apilim decision ia ie go long Magistrate Court sapos anywan ie no happy wetem.

DATED at Port Vila this 25th day of March, 2019.

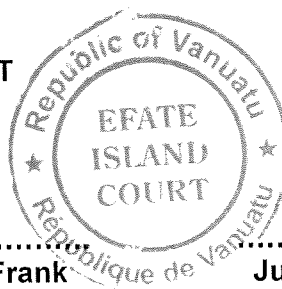
BY THE COURT




Justice Eddie Karis
(Member)



Justice Daniel Frank
(Presiding Justice)





Justice Harry Joshua
(Member)