

**IN THE ISLAND COURT (LAND) OF
THE REPUBLIC OF VANUATU –
Lakatoro, Malekula
(Custom Land Jurisdiction)**

Case No. 17/140 IC/CUST

IN THE MATTER OF:	Section 45 of Custom Land Management Act No. 33 of 2013
IN THE MATTER OF:	Ameliah, Naha and Alahamo Customary Land, Malekula
IN THE MATTER OF:	Decision of Leviamp Nakamal, dated 10 March 2016

BETWEEN: **Family Kilman**
North West Malekula

First Applicant

Family Natnaur
Family Kalnata
Family Tavdey
North West Malekula

Second Applicant

Harry Karma Fare
North West Malekula

Third Applicant

AND: **Leviamp Nakamal Meeting**
Malekula

First Respondent

AND: **Abel Vinbel**
Malekula

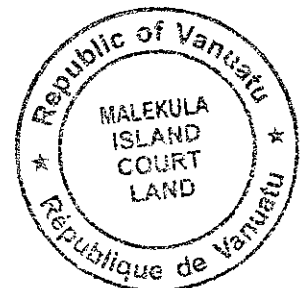
Second Respondent

Coram:

Senior Magistrate B. Kanas Joshua, Chairlady
Justice Douglas Fatdal
Justice Patisson Peter
Justice Joses Lingi
Justice Presilla Susurup

Counsels:

Mr E. Nalyal for the First Applicant
Mr E. Molbaleh/Ms A. Sarisets for the Second Applicants
Mr P. Fiuka for the Third Applicant
Mr S. Aron, for 1st Respondent
Mr D. Yawha, for 2nd Respondent



MINUTE ON APPREHENSION OF BIAS

1. This Minute is linked with an Order that will be issued following the Decision on the Application to Strike Out, which will be made on 10/6/24.

2. On 05/6/24 the Court heard the Application for Strike Out by the second respondent. The hearing was adjourned at the commencement of the second applicants' submission. To be clear, the order of the hearing on the day started with the second respondent, followed by the first respondent, first applicant, third applicant and the second applicant.
3. The second applicant had to be stopped as the court file did not contain one of his documents, namely, the Sworn Statement of Paul Peter on behalf of Family Natnaur & Family Kalnata in support of Judicial Review Application (filed on 24/1/17). The matter was adjourned to 2:00pm the next day, during which time the second applicant would email the document to the Court.
4. On 06/6/24 the Court received the said missing document by the second applicant. In addition, the second respondent also filed a sworn statement. This was a Sworn Statement by Gary Fabian Vinbel in support of Bias Claim. It had come to their attention that Dicson Arnhambat and Kai Nirambat are respondents in the customary land in question and although Family Arnhambat did not challenge the judgment of 10/3/16, it is invoked that they have interest in the customary land. This was also the first time for me to learn of this.
5. This invocation raises the apprehension of bias against me, as the Chair of the ICL, as my husband is a member of the Arnhambat family.
6. However, I decided to complete the hearing of the application for strike out on the grounds that we were three quarters of the way through and that it is a preliminary application which its decision will determine the direction of the Court as to whether to hear the application for review or not. I informed the parties that I shall address the point on biasness after the decision is made. In that way, the preliminary application is completed and dealt with.
7. Parties were also informed that all decisions made by the ICL solely depend on the evidence that is presented before it and that should there be an apprehension of bias, it must be done by way of an application to the Supreme Court. The matter will be addressed at the end of the decision of the application of strike out.

Dated in Lakatoro, Malekula on this 7th day of June, 2024

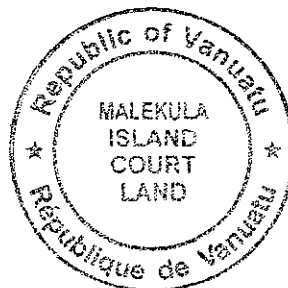
BY THE COURT

**B. Kanas Joshua (SM)
CHAIRLADY**

Justice Douglas Fatdal

Justice Patisson Peter

Justice Joses Lingi



Justice Presilla Susurup