

**IN THE SUPREME COURT OF  
THE REPUBLIC OF VANUATU**

*(Civil Jurisdiction)*

**Civil Case No. 147 of 2008**

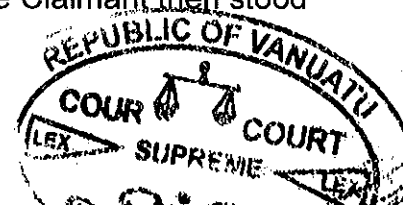
**BETWEEN: CHIEF PHILIP ENBUE**  
Claimant

**AND: FAMILY WILLIE BRAS  
FAMILY KENCY ARTHUR  
FAMILY SHEM REUBEN  
FAMILY ROBERT ABEL**  
First Defendants

Claimant: Mr. C. Leo  
Defendants: Mr. K. Loughman

**DECISION**

1. A conference has been held today. The Orders the Court issued on 5<sup>th</sup> November, 2010 recorded that the Court had been advised by counsel for the Claimant that the only outstanding issue with respect to this Appeal was an appeal pursuant to s. 39 (2) the Customary Land Tribunal Act [Cap. 271] pursuant to which he submits that he was not given the opportunity to be heard by the Malturanevat Island Land Tribunal. That is notwithstanding that the Claimant accepts that he knew the tribunal was hearing the Appeal and he chose not to attend.
2. Today the Court is advised by counsel for the Claimant that the Claimant had objected to Chief Temo Saity and Chief Owen Rion sitting on the tribunal. Evidence has already been filed in this Court by way of a sworn statement by Chief Temo Saity dated 17<sup>th</sup> September, 2009 which records that after the tribunal had received all grounds of appeal and the Claimant's objections were raised, a conference was held on 2<sup>nd</sup> July, 2008 to discuss those objections and other matters.
3. A notice was sent out to all parties advising them of that conference on 2<sup>nd</sup> July, 2007. The Sworn Statement records that at the conference the objections by the Claimant were raised and that Chief Temo Saity indicated that he was prepared to stand down. He records that the Claimant then stood



up and said that since Chief Owen Rion and Chief Temo Saity had been handling this matter since it came to the Tribunal, it is better that they continue until the case was completed. On that basis both chiefs continued to hear the claim. In a Sworn Statement of the Claimant dated 23<sup>rd</sup> March, 2010 he states in paragraph 5 (b) that he did confirm that the 2 chiefs concerned could continue to deal with the matter before the Tribunal but says that he did so because the Second Defendants issued threats of threaten to sue him for objecting at the wrong time. He then goes on to state that he did not authorize the Chiefs to sit. He of course does not have the authority to authorize who sits or who doesn't. He only has the opportunity to object, which he did, which he then withdrew and on that basis the Tribunal proceeded.

4. There is no basis for any appeal under s. 39 (2) of the Customary Land Tribunal Act. That subsection deals with failures of a Tribunal to follow any of the procedures under this Act. No such failure has been shown and nor is this Court satisfied that the Claimant should have a decision made in his favour when he himself withdrew his objections to the two chiefs sitting on the Tribunal. The Claimant's appeal is therefore dismissed.
5. Costs are awarded in favour of the Defendants on a standard basis at an amount to be agreed upon by the parties or failing agreement as taxed by this Court.

**Dated at Port Vila, this 18<sup>th</sup> day of November, 2010**

**BY THE COURT OF VANUATU**

