1943

NEW ZEALAND

THE NATIVE PURPOSES ACT, 1941

REPORT AND RECOMMENDATION ON PETITION No. 86 OF 1940, OF ANI MATAKA AND OTHERS, CONCERNING THE APPOINTMENT OF SUCCESSORS TO THE INTERESTS OF RANGIIKEIKE, DECEASED, IN HOANI BLOCK

Presented to Parliament pursuant to the provisions of section 18 of the Native Purposes Act, 1941

Native Land Court (Chief Judge's Office),
Wellington C. 1, 9th August, 1943.

Memorandum for The Hon. the NATIVE MINISTER.

RANGIIKEIKE (DECEASED)

I TRANSMIT to you the report of the Court, made pursuant to section 18 of the Native Purposes Act, 1941, upon Petition No. 86 of 1940, of Ani Mataka and others, concerning the successors appointed to the interest of Rangiikeike (deceased) in Hoani Block.

The original title to Hoani Block was a Crown Grant (No. 3892) under the West Coast Settlement (North Island) Act, 1880, and the West Coast Settlement Reserves Act, 1881, dated the 12th June, 1883, in favour of—

Hoani Wharekawa,
Rangi te Ngangana,
Rangiikeike,
and twenty others.

The names mentioned above are the first three set out in the enclosure which accompanied the report of the West Coast Commissioner containing his recommendations for the issue of a Crown grant for this land. Hoani Wharekawa was the father of Rangi te Ngangana and Rangiikeike. Hoani died on the 1st March, 1887, and Rangi te Ngangana and Rangiikeike were appointed his successors in this land in equal shares. Rangi te Ngangana died on the 25th July, 1893, and on the 14th December, 1904, Rangiikeike was appointed his sole successor, thus consolidating in Rangiikeike the whole of the interests in the grant of the three grantees named.

Rangiikeike, in his turn, died on the 1st July, 1914, without issue, and it is in respect of the disposition of the interest in the land of this man that the petitioners pray for relief.

Hoani Block grant was a portion of an area known as The Stony River Reserve and was within the boundaries of the confiscations in the Taranaki District, but, although the confiscation was practically abandoned in the case of this land, the Proclamation necessary to give technical effect to the abandonment never issued, and therefore in law the block was confiscated as Crown land, and for that reason was clothed with a title under the statutory provisions mentioned above.

In his report (G.–3, 1883, p. 21) the West Coast Commissioner said of this land that "the issue of the grants now recommended will, in the case of the Stony River Block, fulfil the pledges of the Government by giving to the tribe Crown titles for the whole of their original territory . . . " From this statement it is plain that the persons to be included in the title to the land were those having rights according to Native custom, notwithstanding the technical confiscation of the land.

Rangiikeike having died without issue and having no brothers and/or sisters, his interest in the land would necessarily go back to the line from which it was derived, and under the circumstances described above as to the origin of the deceased's interest it became necessary to go back beyond the issue of the Crown grant to find the source of the interest. The matter has not been without doubt, as the number of hearings it has had would indicate, and I cannot find any convincing evidence either in the West Coast Commission's reports or given before the Court on any of the several hearings of the source of the right—that is, whether the interests taken by the three persons named were in respect of their own several rights or the combined rights of Hoani Wharekawa and his wife so distributed.

Dealing with the matter of this succession on the 15th June, 1938, under section 38 of the Native Land Act, 1931, a former Chief Judge (Chief Judge Jones) said, *inter alia*, "But admitting that both are entitled, and there is no direct evidence as to how the shares the mother was entitled to were distributed between her husband and her children, it seems to the Chief Judge that the proper course to follow wherever there is doubt is to treat them as equal until the contrary is proved."

In view of the Court's finding that the petitioners have not removed the doubt as to the origin of the rights, I have no recommendation to make in the matter of the relief prayed for in the petition.

G. P. SHEPHERD, Chief Judge.

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PETITION 86/1940 BY ANI MATAKA AND THREE OTHERS IN RESPECT TO THE INTERESTS OF RANGIIKEIKE (DECEASED) IN HOANI BLOCK AND REFERRED TO THE NATIVE LAND COURT FOR FURTHER INQUIRY UNDER THE PROVISIONS OF SECTION 18 OF THE NATIVE PURPOSES ACT, 1941

THE matter came before the Court at New Plymouth on 11th May, 1942, when the Petitioners were represented by Hekenui Whakarake. Hakopa te Waiwetiweti, *contra*, appeared at a subsequent Court and advised that he was prepared to rest his objection to the Petitioners case on the evidence already before the Court on its many hearings.

The point at issue in the Petition is whether the shares allotted to Hoani Wharekawa and his two sons Rangi te Ngangana and Rangiikeike in Hoani Block were allotted to Hoani in his own right or in part in the right of his wife Manauea. The evidence at all hearings resolved itself into a contest between the successors on the father's side and those entitled to succeed on the mother's side. It is difficult from the spate of material available at the different hearings to obtain what might be termed disinterested evidence. This Court dropped across a Report of the Commissioner under the West Coast Settlement (North Island) Act, 1880, on the Stony River Reserve. This report is dated 12th January, 1883, and covers recommendations by the Commissioner for the issue of seven Grants, of the Stony River Block of which Grant No. 3892 (Hoani) is one. This Report is recorded in App. to the Journals of the House G.–3, 1883, Appendix V, at page 21. The last paragraph is quoted:—

> "The Commissioner also encloses herewith a list of the grantees recommended for each of the seven grants with the specific acreages *to which each has been declared entitled in his or her own individual right. This apportionment has been made by Major Parris at the request of the Natives and with their assistance as a friendly act on his part which has involved a very great amount of labour and care.* It has, of course, no legal validity but it will prove a very valuable aid to the Trustee of Native Reserves when he comes to deal with the Reserves under the Act of 1881 in arranging leases or dividing rents with a view to which operations I understand the Natives have gone so far towards individualization. They perfectly understand that if they wish to have their holdings surveyed on the ground it will have to be done at their own expense but the present step will greatly facilitate it if it is ever done; and it is respectfully suggested that a copy of the document should be supplied to the Trustee of Native Reserves on the West Coast."

In the list supplied called in the report Grant No. 7 the first three names are—

Hoani Wharekawa	300 shares.
Rangi te Ngangana	100 shares.
Rangiikeike	100 shares.

Nowhere in the grant has any one female received more than 100 shares and in most cases the shares to females are 50 and 25. There is one only with 100 shares allotted. This would appear to veto the suggestion that Rangi te Ngangana and Rangiikeike received their shares on account of the mother.

It is interesting to note that the Commissioner reports that the shares allotted are the specific acreages "*to which each has been declared entitled in his or her own individual right.*"

The recommendations were afterwards given effect to when the Grant No. 3892 was issued. On survey the area was increased so that the shares were also increased. In the Crown Grant these owners are then shown as below:—

Hoani Wharekawa	320 shares.
Rangi te Ngangana	106 shares.
Rangiikeike	106 shares.

At the present hearing no fresh supporting facts were given by the Petitioners. Although the report of the West Coast Settlements Reserves Commissioner may have been of some use to the petitioners at the early hearings when the old people were alive this Court considers the matter is still doubtful and as the Petitioners have not cleared up that doubt the Court does not consider that it can upset the existing position and in consequence has no further or other recommendation to make.

Dated at Wanganui, this 12th day of November, 1942.

[L.S.] (SGD.) R. P. DYKES, Judge.

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