

1914.
NEW ZEALAND.

NATIVE LAND CLAIMS ADJUSTMENT ACT, 1913:

REPORT AND RECOMMENDATION ON PETITION No. 413/13, OF MERE WADE,
RELATIVE TO LOT 451, PARISH OF TAUPIRI.

Laid on the Table of the House of Representatives pursuant to Act.

Native Land Court (Chief Judge's Office), 23rd June, 1914.

The Hon. the Native Minister, Wellington.

SIR,—

Section 2 of the Native Land Claims Adjustment Act, 1913, provides—

- (1.) That the Chief Judge is authorized to refer to the Court for inquiry and report the petitions set out in the schedule to that Act.
- (2.) Upon such report, the Chief Judge is to make such recommendations to the Minister as appear to accord with the equities of such case.

I have the honour to enclose the Court's report upon one of such petitions so referred to the Court by me pursuant to the above-named Act—namely, the petition of Mere Wade (No. 413/13; No. 14 in the schedule to the Act).

In this matter I have the honour to make the following recommendation to you, namely: That, as petitioner has not made out any case for relief, none be granted to her.

JACKSON PALMER,
Chief Judge.

In the matter of Lot 451, Parish of Taupiri, and in the matter of a reference under section 2 of the Native Land Claims Adjustment Act, 1913, for inquiry and report upon the petition of Mere Wade, praying for relief *re* succession order to the interest of Pirihiara Tarawhiti (deceased).

SIR,—

Upon the above reference I have to report as follows:—

The inquiry was held at Ngaruawahia on the 8th June instant. No copy of the petition was supplied to the Court.

Evidence was given by the petitioner, her brother and sister, and by Hone Pera, the present successor to Pirihiara Tarawhiti.

The evidence of Hone Pera was to the effect that he was the adopted child of the deceased, who was his aunt; that she left a will in his favour; that the order sought to be upset was made in pursuance of that will; that such will could not now be produced as it was burnt when his house at Coromandel was destroyed by fire.

The evidence of Karaka Tarawhiti was to the effect that at the time when the succession order to the deceased was made he was away from the district; that his sister, Roka Hopere, who prosecuted the succession application before the Court, wrote him that a will from the deceased to Hone Pera was in existence, and it was proposed that order should be made to him; he then acquiesced in the making of such order.

The evidence of Roka Hopere was to the effect that she had heard of the will to Hone Pera, but had never seen it; that by a family arrangement the succession was to go to Hone Pera.

Both these two witnesses stated that petitioner was not consulted on the arrangement, as they were not then on speaking terms with her.

The evidence of Mere Wade was to the effect that at the time of the making of the order she was not on good terms with the other members of her family; that she was not aware of the making of the order until many years afterwards; that she was unaware of any will, and was not a party to any arrangement as to the disposal of deceased's interest; that she never consented to such order; that she endeavoured to upset such order, but by law was debarred from doing so.

Both Tarawhiti and Roka Hopere state that they have no claim on the interest of the deceased, and that they have no wish to alter, so far as their own interests are concerned, the existing order. Tamati Tarawhiti (deceased), another son of Pirihiara Tarawhiti, was a party to the said arrangement.

There being four children at the time of the making of the order, the petitioner in the event of any alteration would be entitled to one-fourth of the deceased's interest.

In concluding, I wish to draw attention to the fact that petitioner allowed twenty years to elapse before she moved for relief, although at the time of the making of the order she was then and for many years after living with Mr. J. M. Fraser, Native agent, a man well versed in matters appertaining to the Native Land Courts, as his wife.

I enclose herewith a copy of the minutes taken on the inquiry.

I have, &c.,

A. J. HOLLAND, Judge.

TAUPIRI LOT 451.—REFERENCE UNDER SECTION 2, NATIVE LAND CLAIMS ADJUSTMENT ACT, 1913.—SUCCESSOR TO PIRIHIRA TARAWHITI.

MR. WITHERS: Petitioner was a daughter of deceased. Succession order was made in her absence. I will call—

MARY WADE (sworn): I was formerly called Mere Palmer Tarawhiti. Deceased was my mother; died about 1887 or 1888—do not know year. I discovered the making of the order to Hone Pera, but when I did discover it I was too late to lodge an appeal. I heard that Hone Pera had been appointed successor. I never heard that he was to be appointed successor, nor did I give any consent. When I learnt of the succession order I appealed to the Chief Judge of the Native Land Court. It was returned to me with advice that section 50, 1909, did not apply. I then petitioned Parliament, but did not go down to prosecute my petition. I petitioned a second time, and appeared in the matter personally. Roka Hopere is my sister, and Karaka Tarawhiti is my brother. I am entitled to one-third of deceased's interest in block.

To Court: I was never told why this interest should go to Hone Pera. I did speak to Roka and to Karaka. Roka said that when alive Pirihira had decided what persons should succeed her. I was not then good friends with Roka. Roka also told Karaka the same as she had told me.

To Hone Pera: I did not bring Pirihira's will to you. I went to Coromandel to visit you. I remember giving you a letter from deceased, but I do not recollect handing deceased's will over to you. You were not adopted child of deceased; you are the child of Pirihira's elder sister. We lived together at Taupiri.

(Mr. Withers has no further evidence.)

HONE PERA (sworn): Mere Tarawhiti gave me a document which I took to be a will. It was given me in Auckland. I took it to Koputauaki. Mere went with me. Document was burnt when my house was burnt. I then came to Taupiri and informed Mere, Roka, and others that it was burnt. A short time after I applied for succession. Roka prosecuted the application at Mercer, and order was made to me. Mere was then married to Fraser, a Native agent. Cannot say that she was aware of application. Pirihira was my aunt. I lived with her. Pirihira has many lands, but this was the only interest she decided to give me. The will or letter was a statement that this interest should go to me.

To Withers: Deceased left other properties. The will did not allude to them. Will was addressed to me, and was given to me by Mere. Mere knew of the contents, but I did not tell her what the will contained. Showed will to no one. Based my claim on will. Cannot say any one else but myself saw the will. Pirihira was alive when I received will. Will said that it was out of *aroha* this interest was to go to me. My house was burnt one week prior to receiving news of Pirihira's death. Mere told me will was written by old woman, and that the old woman was giving interest to me. I was about fifteen when I left Pirihira. I returned after three years. I lived with her for another four years. I then married and still continued to live with her. Pirihira's own children lived with her. Pirihira told me that I was to have this interest; Heta, her husband, heard her.

KARAKA TARAWHITI (sworn): I never heard of this will to Hone Pera. I was present at Pirihira's death, but never heard of this will. Case was dealt with in 1890 at Mercer. I was then at Rotorua. I there received a letter from Roka to the effect that this interest was awarded to Hone Pera under will; that will had been burnt at Coromandel; also that Mere had seen that will. She stated that she would give evidence of this will, and asked me not to make any objection to the application. I replied that if what Roka had said was correct I would raise no objection. At that time Roka and I were not on friendly terms with Mere. Did not see Mere till some time after case had been dealt with. I asked her if she knew anything of this will, and she said she had never seen one. I have no interest in this case now: I allowed it to drop.

To Withers: Pirihira never mentioned anything about a will to me. I only heard of the will from Roka. When I saw minutes it was too late to appeal. I make no claim to this interest.

To Court: Hone Pera lived with Pirihira for short periods. I was a child with Hone Pera, so cannot say if he lived with Pirihira after his mother's death.

ROKA HOPERE (sworn): Pirihira was my mother. It was I who placed application to succeed before the Court. I never told Mere of the succession, but I wrote to Karaka. I never saw the will. In my letter to Karaka I told him that I had heard of will, and he replied that if there was a will he would raise no objection. Another brother accompanied me to Mercer and agreed to the order to Hone Pera. Never heard of will from my mother, but from Hone Pera. I agreed out of *aroha* that the interest should go to Hone. I believed at the time I made the order that a will to Hone Pera had existed. Never mentioned to Court that there was a will.

To Withers: I acted for my family in this matter. Nothing to show that I was acting for Mere. Never heard that Pirihira adopted Hone Pera. Cannot say if Hone Pera as a child lived with Pirihira: he did so as a young man.

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