

From all the evidence placed before me, and which I have been able to find, I consider the petitioner has set up a strong case for the reopening of the title, and I suggest that if special legislation for this purpose is introduced it should be upon the lines of section 104 of the Native Land Act, 1909, so that the tribunal should determine finally—(1) Whether the five owners named in the order of the 25th June, 1883, for Matata 39A were actually trustees for persons not named therein; and, if so, (2) to determine who are the persons entitled beneficially to the said land, and their relative shares, &c.

Any legislation should be confined to Section 39A, as the title to the land bought by the Crown is not being attacked.

Dated at Whakatane, this 27th day of April, 1922.

H. F. AYSON, Judge.

*Extract from Whakatane Minute-book No. 20, Page 237.*

(13th April, 1922.)

MATATA, LOT 39.—INQUIRY PURSUANT TO SECTION 35 OF THE NATIVE LAND AMENDMENT ACT, 1921-22, UPON PETITION 345 OF 1920, OF HAKI TAMATI.

HAKI KARAWANA (or TAMATI): I would like a short adjournment to explain to the persons present the nature of my case. (Court adjourned for an hour.)

On resuming—

HAKI KARAWANA (or TAMATI): We held meeting and I explained position, and that in old day only ten were usually put in grant. Whakarau Petera still opposes, also Rangi Whakahaerea. I will now proceed with my case. I submit that grantees are trustees for their tribes; they are also owners. They were put in grant as the leaders. Other rangatiras entitled, but left out, as grant limited to ten. I do not intend to attack the part acquired by Crown—39B. I deal only with 39A (Native portion). Total area, 13,675 acres; Crown acquired 6,837 acres 2 roods; Natives' balance, 6,837 acres 2 roods. (Called 39A.)

I refer to Maketu Minute-book No. 5, at page 371. Evidence of Captain Mair on partition order on page 378. Evidence of Raimona Petera (pages 372, 373) that grantees were trustees; also Hataraka Patutohora (at page 373). Raimona Petera is elder brother of Whakarau Petera. This was confiscated land: see page 375, evidence of Paora Petera (not grantee). Paora Petera is grandfather of Rangi Whakahaerea (admitted). He admits trust. This land was returned to the Natives because of their loyalty to the Queen. Some were officers, &c.

Persons in grant are owners, but there are others left out because grant limited to ten. Hapus agreed on these representatives. They represent certain hapus of N'Tuwharetoa, who remained here when the others went to Taupo. Tuwharetoa himself died on this block. His descendents went to Taupo. Buried in a cave named Te Atua Reretahi.

Our people were on land before confiscation, and Crown thought they were disloyal. On finding out mistake Crown returned the land. The grantees and others were officers in the Queen's Army. About 1864—Te Kooti's rebellion.

In 1916 block partitioned—30th June, 1916. Relative interests defined 24th November, 1911. Partition appealed against Wairiki Appellate Court Minute-book No. 1, page 277. Appellants were Rangi Whakahaerea and her sister, and Court adjourned matter until beneficial owners ascertained. 30th December, 1916.

(Note by Court: The appeal was dismissed.—Minute-book No. 1, pages 330-35.)

I raised question about beneficial owners. The grantees are heads of different families or subtribes. I wish to call evidence:—

TE RATU RENATA (sworn): This block was returned by the Crown for N'Tuwharetoa who were at Kawerau—about six hundred altogether. Kawerau is the block. 13,000 acres given because tribe so numerous. Trustees were selected by the N'Tuwharetoa for the grant. They were rangitiras, the grantees. The subtribes of N'Tuwharetoa were three—viz., (1) Ngaitamarangi, (2) N'Peeki, (3) N'Umutahi. These occupied. Some of the grantees were officers in the army. Hohepa Rokoroko and Raimona Petera were sergeants. Land returned because of loyalty to same persons to whom it belonged before confiscation, and the grantees were simply leaders of the people. I am claiming a share. We occupied permanently on block under N'Tuwharetoa. The grantees were owners as well as trustees. We have an equal right, and we occupied too with them. Other persons besides the grantees and their successors are now occupying—viz. (*inter alia*), (1) Hunia Kirihi, (2) Rauwhiro.

I have not occupied. Some grantees not on block. We always assumed we had a right, but grantees would not admit our right. I lived on block prior and subsequent to the confiscation. The *pa* of my ancestors is called Moturoa, in a lake. There are burial-grounds there. I desire to be put in title. I am under N'Umutahi. No grantee is an Umutahi, but Te Wetini (a successor to Anania te Otene) is an Umutahi.

Cross-examined by Whakarau Petera: I know Moturoa—3 or 4 acres. I am under Umutahi, who are descendents of N'Tuwharetoa. Grantees were selected by the tribe. Area occupied by Umutahi, over 1,000 acres. Our occupation was—Te Waha o te Parata, Rahitiroa, and Te Rui o Kawerau (a bush).

I came under Umutahi in a block just adjoining, called Rotoma. My children are on Matata 39 in their own right, not through marriage with your people. I was too young to attend meeting when trustees were appointed.