

The writer of the document referred to gives as a reason for not desiring to approach the Native Land Court, as had been suggested, the fear of the resuscitation of the old claims by Ngatikoata, and makes particular reference to the fact that Wahapiro, another son of Kauhoe, having been released from captivity, had been invited by his brother Wi Katene te Puoho to share Wakapuaka lands. Owing, however, to Wahapiro having disturbed the European settlers, Wi Katene (it is said) had considered that, as from the time of that disturbance, his brother had forfeited his right to share in the land. Still, there was the danger that the sons of Wahapiro might possibly attempt to set up a claim. If this is correct and had he, according to Native custom, any right in the land, no offence by Wahapiro committed in 1845 could do away with such right.

It seems to the Chief Judge that a *prima facie* case has been made out for a reopening, and that an opportunity should be given for placing the claims of the various petitioners fully before the Court, with power to that tribunal to make such order as the justice of the case may require, taking care not to invalidate any past transactions for value.

Legislative action is recommended accordingly.

R. N. JONES, Chief Judge.

In the Native Land Court of New Zealand, South Island District.—In the matter of the Whakapuaka Block; and in the matter of section 9 of the Native Purposes Act, 1934; and in the matter of section 542 of the Native Land Act, 1931; and in the matter of Petition 262 of 1933, of Hari Wi Katene and others, praying for relief in respect of the rightful ownership of Whakapuaka Block on behalf of the relatives of one Kauhoe; and in the matter of Petition 123 of 1934, of Waka Rawiri and another, praying for relief in respect of the rightful ownership of the Whakapuaka Block on behalf of the Ngatitama Tribe; and in the matter of Petition 329 of 1934, of John Arthur Elkington and others, praying for relief in respect of the rightful ownership of the Whakapuaka Block on behalf of the Ngati Koata Tribe.

At a sitting of the Court held at Wellington on the 8th day of July, 1935, before JOHN HARVEY, Esquire, Judge.

UPON reference by His Honour the Chief Judge of the above petitions for inquiry and report, and upon hearing counsel for the petitioners and for the legal owners of the land in question, and after considering all evidence adduced and available, the following report is submitted:—

1. The land the subject of the petitions is the Whakapuaka Block, which originally contained an area of 17,739 acres, and was awarded by the Native Land Court (Judge Mair, at Nelson) on the 20th November, 1883, to Huria Matenga as sole owner. A consequent certificate of title under the Native Land Act, 1880, was forwarded for registration under the Land Transfer Act on the 28th January, 1895, and was registered on the 4th February, 1895. On the death of Huria Matenga in 1909 the land passed by her will to her husband, Hemi Matenga. On his death in 1912 it went to the trustees under his will. The area remaining at present is owned by Thomas Neale and Ernest Frederick Upham (trustees under the will of Hemi Matenga) and comprises,—

Firstly: An area of 8,860 acres 2 roods 17 perches, being all the land in certificate of title, Volume 61, folio 64, Nelson Registry; and

Secondly: An area of 2,520 acres 2 roods 5 perches, being all the land in certificate of title, Volume 67, folio 109, Nelson Registry.

2. The Court has been directed to report upon three petitions which have the common ground that this land was derived from former owners by units of the force which came from Kawhia under the leadership of Rauparaha. Once beyond this common ground the claims of the petitioners and respondents vary in the following manner:—

3. John Arthur Elkington and others (Petition 329/35) claim that the land was originally given to Ngati Koata by Tutepourangi in return for his life; that Ngati Koata made a gift of the use of a part of the land to Kauhoe for her son Wi Katene te Puoho; that the Ngati Koata occupied the land in conjunction with Wi Katene te Puoho, and that, as Wi Katene te Puoho's line has failed, the gift reverts to its source and thus leaves Ngati Koata sole owners of the land.

4. Waka Rawiri and Hoani Meihana (Petition 123/1934) claim the land for the members of the Ngati Tama Tribe, who lived at Whakapuaka, and for whom the land was set apart "long before 1862." Their list of Ngati Tama people who lived at Whakapuaka and cited as part of the petition includes Wi Katene te Puoho, from whom Huria Matenga derived her interest to the land, but does not include the ancestors of any of the petitioners in Hari Wi Katene's petition.

5. Hari Wi Katene and others (Petition 262/1933) claim that the land was given by Ngati Koata to Kauhoe, and that, as Kauhoe and her descendants resided permanently on the land from 1836 to 1883, the persons entitled to the land would be those who could properly claim rights according to Maori custom under this gift. Huria Matenga, as the only child of Wi Katene te Puoho, a son of Kauhoe, would be entitled to a considerable share under this arrangement.

6. The case for the respondents (based upon and supporting the effect of the judgment of the Native Land Court in 1883) is that the land was given by Ngati Koata to Kauhoe for her son Wi Katene te Puoho, from whom it naturally devolved to his only surviving child, Huria Matenga.

7. Huria Matenga died on the 24th April, 1909, at the age of sixty-eight years, and the estate has passed by the steps already shown to strangers. In these proceedings, however, as the attack is upon the root title, she will be treated as the ultimate respondent.

See plan.