

I TE KOOTI WHENUA MĀORI O AOTEAROA
I TE ROHE O TE TAITOKERAU

*In the Māori Land Court of New Zealand
Taitokerau District*

AP-20240000013246
CJ 2024/87

WĀHANGA
Under

Section 45, Te Ture Whenua Māori Act 1993

MŌ TE TAKE
In the matter of

Waima C1

NĀ
By

GEORGINA VIOLET BALL (née LAWSON)
Te Kaitono
Applicant

Nohoanga:
Hearing

10 September 2025, 2025 Chief Judge's MB 1712-1723
(Heard at Wellington via Zoom)

Whakataunga:
Judgment date

17 December 2025

TE WHAKATAUNGA Ā KAIWHAKAWĀ MATUA C L FOX
Judgment of Chief Judge C L Fox

Hei tīmatanga kōrero

Introduction

[1] On 25 November 2024 Georgina Violet Ball (née Lawson) (the applicant) filed this application pursuant to s 45 of Te Ture Whenua Māori Act 1993 (the Act) seeking to cancel an order pursuant to s 164 of the Act made at 31 Kaikohe MB 184-185 on 1 February 2002 (the Order).

[2] The Order relates to the transfer of shares by way of gift in the Waima C1 block from the applicant's mother Violet June Timoko to Violet's brother, Sonny Timoko (also known as Sonnyboy Timoko).

Kōrero whānui

Background

[3] The Registrar's Preliminary Report and Recommendation dated 25 July 2025 (the Report) sets out the background to this application. The Report is reproduced in full as follows:

**Te rīpoata me tana tūtohunga mā tētahi tono i raro i te wehenga 45 o Te Ture
Whenua Māori Act 1993 ki te Kaiwhakawā Matua**

Preliminary report and recommendation on an application under section 45 of Te
Ture Whenua Māori Act 1993 to the Chief Judge

He kupu arataki

Introduction

- [1] This application filed by Georgina Violet Ball (nee Lawson) ("the applicant") seeks to cancel a vesting order at 31 Kaikohe MB 184-185 dated 1 February 2002 relating to the shares transferred in the Waima C1 block, by way of gift, from Violet June Timoko, the applicant's mother.
- [2] The applicant claims the order is incorrect due to a mistake, error, or omission in the presentation of the facts of the case to the Court because:
- (a) The applicant's mother, Violet June Timoko, gifted all of her shares in the Waima C1 block without the applicant's knowledge, consent and support.
- [3] The applicant claims that they have been adversely affected by the order upon the grounds that:

- (a) *"I have not received my birth right which is my ancestral land passed down through the generations. Taonga tuku iho.*

I am my mother's only (biological) daughter, the highest in the preferred class of alienees, I should have been a primary consideration, and her whakapapa noted."

- [4] The applicant seeks to have the order cancelled.

He kōrero tuku iho

Background

- [5] The matter was heard by the Court at 31 Kaikohe MB 184-185 on 1 February 2002 and the minute is reproduced as follows:

Extract from minute book:	31 KH 184-185
Place:	Kaikohe
Present:	A D Spencer, Judge T A Edwards, Clerk of the Court
Date:	Friday 1 February 2002

S.164/93 – WAIMA C1

Violet Timoko

Also present: Sonnyboy and Hemoata Timoko.

I have 1 daughter, Georgina Lawson-Ball, who resides in Auckland. She does not know about this application. Sonnyboy is my brother. I wish to gift all my interest in this block to Sonnyboy. I received the interest from my mother Mere Puru by her will. I refer to the succession at 8 RGTO 137. My mother had 7 children.

Sonnyboy Timoko: It is my intention to return it to the whole family – we need to bring everyone back together again.

COURT I understand the situation. Order accordingly vesting the interest in Sonnyboy Timoko to enable him to make application to vest the land in trustees under a whanau trust for all the descendants of Mere Hamuera Puru. If Sonnyboy files an application pursuant to s.214/93 within 6 months, the application fee will be waived.

Copy to applicant.

- [6] The Court made orders relating to the Waima C1 block:

VESTING ORDER

Te Ture Whenua Maori Act 1993
Section 164

IN THE MAORI LAND COURT
OF NEW ZEALAND
TAITOKERAU DISTRICT

IN THE MATTER of the land known as **WAIMA C1**
(Certificate of Title Volume 19C folio
888)

At a sitting of the Court held at Kaikohe on 1 February 2002 before Andrew Duncan Spencer, Esquire, Judge

WHEREAS Violet June Timoko of 3 Purdy St, Kaikohe (hereinafter referred to as "the transferor") is the owner of an interest in the Maori freehold land known as **WAIMA C1 (Certificate of Title Volume 19C folio 888)** being an undivided share amounting to 44.045 shares out of a total 224.000 shares in the legal estate in fee simple in the said land

AND WHEREAS an agreement has been entered into between the transferor and Sonny Timoko of PO Box 75, Omapere, Hokianga (hereinafter referred to as "the transferee") for the transfer by the transferor to the transferee of 44.045 of the said shares of the transferor, being all of the said divided shares by way of gift

AND WHEREAS the Court is satisfied that it is lawful and proper for it to make this order

NOW THEREFORE for the purpose of giving effect to the said agreement it is hereby ordered that 44.045 of the said shares of the transferor, being the whole of the said undivided share, be and the same, are hereby vested in the **Sonny Timoko**

IT IS HEREBY CERTIFIED that this order is exempt from gift duty by virtue of the provisions of Section 71 of the Gift Duties Act 1999

Given under the Seal of the Court

AS WITNESS the hand of the Registrar and the Seal of the Court


Registrar



Ngā kōrero taunaki
Supporting or other information

[7] The applicant has provided the following documents in support of their application:

- a) Copy of the minute and order complained of.
- b) Copy of a previous application to the Chief Judge filed by the applicant on 16 October 2024, in relation to the same matter. This application was refused.

Te rangahau a te kooti
Court research

[8] The record shows:

- (a) At 8 Taitokerau Registrar MB 137 on 6 September 1993, Violet June Timoko received 44.045 shares in the Waima C1 block, on succession to her mother, Mere Timoko also known as Mere Hamuera Puru.
- (b) The application form for a vesting order under section 164 of Te Ture Whenua Māori Act 1993 at the time of the order complained of did not require the applicant to state whether she had any children or to provide her own whakapapa. The requirement for whakapapa was to determine the relationship between the transferor and the transferee to determine whether the transferee was a member of the preferred class of alienee, defined in section 4 of Te Ture Whenua Māori Act 1993:

preferred classes of alienees, in relation to any alienation (other than an alienation of shares in a Maori incorporation), comprise the following:

- (a) Children and remoter issue of the alienating owner:*
- (b) Whanaunga of the alienating owner who are associated in accordance with tikanga Maori with the land:*
- (c) Other beneficial owners of the land who are members of the hapu associated with the land:*
- (d) Trustees of persons referred to in any of paragraphs (a) to (c) of this definition:*
- (e) Descendants of any former owner who is or was a member of the hapu associated with the land:*
- (c) The lower court file records that the application was signed by both Violet June Timoko (the transferor) and Sonny Timoko (the transferee) and witnessed by a Deputy Registrar of the District Court, in accordance with rules 113 and 115(2) of the Māori Land Court Rules 1994.
- (d) At the time of the application, section 164(8) of Te Ture Whenua Māori Act 1993 read:

A person who is entitled to a beneficial interest in the land, or who will be entitled to such an interest if the order is made, shall be entitled to appear and be heard on an application for a vesting order, whether or not that person is a party to any contract or arrangement to which the application relates.
- (e) The rules applicable at the time of the order complained of in terms of notification under the Māori Land Court Rules 1994 are as follows:

Rule 26 Notice of fixture

Where the Registrar sets an application down for hearing, the Registrar shall send written notice of the date and place of hearing—

- (a) To each applicant; and*
- (b) To any person who has notified an intention to be heard as provided in rule 36 of these rules; and*
- (c) In the discretion of the Registrar, but subject to any direction of the Judge, to any person appearing on the face of the application to be affected by it; and*
- (d) To each solicitor on the record for any party to the proceeding.*

Rule 27 Notice to other persons

The Court may, before hearing or proceeding further with the hearing of an application, require the applicant or the Registrar to give such notice or copies of any paper or plans filed in court as the Court considers necessary to any person who may appear to the Court to be affected by the application.

- (f) The lower court file records that on 13 December 2001, a copy of the pānui notice for the sitting scheduled for 1 February 2002 was sent via post to Violet June Timoko, whereby the Court asked that Violet advise other interested parties of the Court hearing and any children, if applicable.
- (g) It appears that the applicant, Georgina Violet Ball (nee Lawson) was not notified of the application filed by Violet June Timoko as per the evidence recorded at folio 184 of 31 Kaikohe MB 184-185 dated 1 February 2002, whereby Ms Timoko states:

“I have 1 daughter, Georgina Lawson-Ball, who resides in Auckland. She does not know about this application.”
- (h) The interests vested in Sonny Timoko also known as Sonnyboy Timoko are currently still held in his name, and therefore shows that no whānau trust was set up as indicated at 31 Kaikohe MB 184-185 dated 1 February 2002. Details are as follows:

Te whakatakotoranga o ngā poraka whenua:

Table of land blocks

Te rohe o Te Taitokerau:

Te poraka Block name	Te tohutoro LINZ LINZ title reference	Te kaihihihi onāianei Current owner	Ngā hea The shares
Waima C1	NA19C/888	Sonny-Boy Timoko	44.045

Ngā taipitopito o te ōta e whai pānga ana ki te whenua e hāngai ana ki tēnei tono
Details of a subsequent order affecting lands to which this application relates

[9] At 5 Taitokerau MB 221 on 14 May 2010 the Court made an order pursuant to section 87 of Te Ture Whenua Māori Act 1993 to amend the names of Sonnyboy Hanuere Timoko and Sonny Timoko, to that of Sonny-Boy Timoko.

[10] At 4 Taitokerau MB 246-249 on 14 April 2010 the Court made an order pursuant to section 18(1)(a) of Te Ture Whenua Māori Act 1993, determining that the dwelling house erected on Waima C1 is the sole and exclusive property of Sonny-Boy Timoko and his wife, Hemoata Timoko.

It is important to note that the dwelling owned by Mr and Mrs Timoko is separate to the dwelling determined at 20 Kaikohe MB 180-181 on 4 February 1993 to be the sole and exclusive property of Violet June Timoko and Junior Cedric Mervyn Timoko.

[11] At 7 Taitokerau MB 50-51 on 23 June 2010 the Court made an order pursuant to section 328 of Te Ture Whenua Māori Act 1993 determining that Sonny-Boy Timoko is entitled to the exclusive use and occupation of an area of 2500 m² more or less (as identified on the plan attached hereto) as a site for a dwelling on Waima C1 block with effect from the 23rd day of June 2010 upon the terms that:

1. the occupier, his invitees, agents and workers shall have a right of access over the balance of the land as detailed in the sketch plan for the purpose of access to and from the said area; and
2. the occupier shall meet any rates or other charges levied in respect of the said area; and
3. the order shall end and be cancelled by the Court in the event that:
 - (a) the occupier does not build a house on the land within 5 years of the date of this order; or
 - (b) the occupier alienates any of the beneficial interests in the land which he holds at the date of this order.

Te utunga nā te putanga o te ōta

Payments made because of the order(s)

[12] From the record, it appears that no revenue has been generated from this block as the memorial schedule entries against the Waima C1 block show no detail of any administration being made over the block, nor any record of a lease.

Ngā āhuatanga i rararu ai

Areas of difficulty

- [13] Following the direction made to the applicant to provide the details of Sonny Timoko also known as Sonnyboy Timoko, the applicant has confirmed that Mr Timoko died on 17 July 2011. A copy of his obituary notice is on file.
- [14] The applicant has listed three of Sonny Timoko also known as Sonnyboy Timoko's children as affected parties. However, the contact details for one of his children are not known and therefore is unable to be contacted. Those children are:

Te ingoa Name	Te ira Male/Female/ Gender Diverse
1 Sonny Edward Timoko	M
2 Frederick Aaron Timoko	M
3 Rangi Timoko	M

Āe rānei, he take o tana haere ki tētahi kootitanga

Consideration of whether matter needs to go to hearing

- [15] It appears an error was not made.
- [16] Whilst the applicant was not given an opportunity to give her consent or object to the order complained of, the Court did not require the applicant's consent to grant the order made under section 164 of Te Ture Whenua Māori Act 1993 to transfer the interests of Violet June Timoko to her brother Sonny Timoko also known as Sonnyboy Timoko. Therefore, I respectfully recommend that the application be dismissed.
- [17] The application should be set down for hearing because the applicant should be given an opportunity to address the transfer and whether the order should be cancelled. The application is set down for hearing on 10 September 2025 at 11.45am.

Te tūtohunga hei whai

Recommendation of course of action to be taken

- [18] I recommend that:
- a) a copy of this report is sent to parties giving them 28 days in which to comment or respond in writing.
 - b) the application be set down for hearing on 10 September 2025 at 11.45am to:

- (i) hear from the parties; and
- (ii) subject to the responses from the parties before or during the hearing, dismiss the application.

Ko te hātepe ture o te tono nei

Procedural history

[4] On 4 July 2025, the affected parties recorded in the application were provided with a copy of the application and supporting documents filed.

[5] By letter and email dated 25 July 2025, the Report was distributed to the applicant and affected parties for whom addresses were known.

[6] By correspondence dated 29 July 2025 an affected party, Sonny Edward Timoko, filed an objection to the application with a notice of intention to appear to oppose the application on behalf of himself and his brother, Frederick Aaron Timoko. In their objection to the application, Sonny and Frederick claim that they know that their aunty, Violet June Timoko, was of “sound knowledge” when she made the application to transfer her shares at the order complained of.

[7] On 4 August 2025, the applicant was informed of the objection received and the notice of intention to appear from Sonny and Frederick.

[8] On 22 August 2025, the applicant filed an objection to the Report to dismiss the application. The applicant further claimed that her mother was not of sound knowledge when she made the application to the Court to transfer her shares in the order complained of. The applicant informed the Court that medical records were available to support this claim, if required.

[9] Notice of hearing was issued to the applicant and affected parties by letter and email dated 25 July 2025.

[10] The draft submission and a further notice of the hearing was issued to the applicant and affected parties by letter and email on 26 August 2025.

Te nohoanga a te Kooti

Court hearing

[11] The application was heard before me in Wellington (via Zoom) on 10 September 2025.¹ At the hearing Sonny and Frederick raised matters as to their knowledge of the application, the history of the whenua, the fact that the applicant was raised by her father (not Violet), and their understanding of Violet's intention to gift shares to their father in the Waima C1 block.

[12] Ms Ball (née Lawson) challenged the matters raised in terms of Sonny's and Frederick's knowledge of the application and the matters raised in terms of her mother, Violet. She claimed she was very sick.

[13] I reserved my decision.

Te kōrero a te kaitono

The applicant's submissions

[14] The applicant submits that the order is incorrect due to a mistake, error or omission in the presentation of the facts to the Court.

[15] The applicant claims that her mother Violet June Timoko gifted all her shares in the Waima C1 block without the applicant's knowledge, consent and support.

[16] The principal evidence filed in support of the applicant's claim is the minute at 31 Kaikohe MB 184–185, where the Court record confirms that Violet did not inform the applicant of the application to gift her shares in the Waima C1 block to Sonny Timoko also known as Sonnyboy Timoko.

Te Ture

The Law

[17] The Chief Judge's jurisdiction to amend or cancel an order of the Māori Land Court is set out in s 44(1) of the Act:

¹ 2025 Chief Judge's MB 1712–1723 (2025 CJ 1712–1723).

44 Chief Judge may correct mistakes and omissions

- (1) On any application made under section 45 of this Act, the Chief Judge may, if satisfied that an order made by the Court or a Registrar (including an order made by a Registrar before the commencement of this Act), or a certificate of confirmation issued by a Registrar under section 160 of this Act, was erroneous in fact or in law because of any mistake or omission on the part of the Court or the Registrar or in the presentation of the facts of the case to the Court or the Registrar, cancel or amend the order or certificate of confirmation or make such other order or issue such certificate of confirmation as, in the opinion of the Chief Judge, is necessary in the interests of justice to remedy the mistake or omission.

[18] In *Ashwell – Rawinia or Lavinia Ashwell (nee Russell)*, I set out the principles to be applied in determining such applications made pursuant to s 45 as follows:²

- When considering s 45 applications, the Chief Judge needs to review the evidence given at the original hearing and weigh it against the evidence provided by the Applicant (and any evidence in opposition);
- Section 45 applications are not to be treated as a rehearing of the original applications;
- The principle of *Omnia Praesumuntur Rite Esse Acta* (everything is presumed to have been done lawfully unless there is evidence to the contrary) applies to section 45 applications. Therefore, in the absence of a patent defect in the order, there is a presumption that the order made was correct;
- Evidence given at the time the order was made, by persons more closely related to the subject matter in both time and knowledge, is deemed to have been correct;
- the burden of proof is on the applicant to rebut the two presumptions above; and
- as a matter of public interest, it is necessary for the Chief Judge to uphold the principles of certainty and finality of decisions. These principles are reflected in section 77 of the Act, which states that the Court orders cannot be declared invalid, quashed or annulled more than 10 years after the date of the order. Parties affected by orders made under the Act must be able to rely on them. For this reason, the Chief Judge's special powers are used only in exceptional circumstances.

[19] Section 44 explicitly refers to situations where the Court has made an incorrect decision due to a flaw in the evidence presented, or in the interpretation of the law, and it is necessary in the interests of justice to correct its record. For this reason, s 45 applications must be accompanied by proof of the flaw identified, either through the production of

² *Ashwell – Rawinia or Lavinia Ashwell (nee Russell)* [2009] Chief Judge's MB 209 (2009 CJ 209).

evidence not available or not known of at the time the order was made or through submissions on the law.

[20] As stated in *Tau v Nga Whānau o Morven and Glenavy – Waihao 903 Section IX Block*, the Chief Judge must exercise his or her jurisdiction by applying the civil standard of proof on the balance of probabilities, having regard to that standard's inherent flexibility that takes into account the nature and gravity of the matter at issue.³ This means that the applicant must establish on the balance of probabilities that there was a mistake or omission.

[21] The Court of Appeal has recently confirmed that the power under s 44(1) falls into two parts:⁴

The first is an evaluative decision as to whether the order made was “erroneous in fact and law because of any mistake or omission on the part of the court or the Registrar or in the presentation of the facts of the case to the court or the Registrar.” The second is a power, which is likely in most cases to involve discretion, to “cancel or amend the order ... or make such other order as, in the opinion of the Chief Judge, is necessary in the interests of justice to remedy the mistake or omission.” We note that in making that decision, and exercising that power, the preamble to the Act and ss 2 and 17 are of particular significance.

[22] The Order was made pursuant to s 164 of the Act. This provision reads:

164 Transfer of land or undivided interest by court vesting orders

- (1) The court may, in accordance with this section, make a vesting order for the transfer of any Maori freehold land or any undivided interest in any such land to and in favour of any person or persons to whom that land or interest may be alienated in accordance with the provisions of Part 7.
- (2) An application for a vesting order may be made by—
 - (a) a party to a contract or arrangement relating to the proposed transfer; or
 - (b) a donor of the land or interest; or
 - (c) a trustee for a person entitled to the land or interest.
- (3) The provisions of sections 152 and 158, so far as they are applicable and with any necessary modifications, shall apply to an application for a vesting order as if it were an application for confirmation of an instrument of alienation.

³ *Tau v Nga Whānau O Morven & Glenavy – Waihao 903 Section IX Block* [2010] Māori Appellate Court MB 167 (2010 APPEAL 167).

⁴ *Inia v Julian* [2020] NZCA 423 at [10].

- (4) Every contract or arrangement entered into for the purposes of this section shall be executed and attested, and proven in writing, in accordance with the rules of court, but shall not be enforceable as a contract.
- (5) Where any money is payable by way of consideration for the proposed transfer, the court shall not sign or seal a vesting order unless and until it is satisfied that the money has been paid to the Māori Trustee or the court appointed agent or trustees appointed under this Act, or to the alienor.
- (6) Where a vesting order is sought to effect a gift of any land or share having a value in excess of \$2,000, the court may decline to make the order without evidence in support of the application from the alienor, either in person or in any other manner authorised by the rules of court.
- (7) Where a vesting order is sought to give effect to a proposed transfer and one of the parties to the transfer has died, the court may make the order if it is satisfied that proper agreement had been reached before the death of that party.
- (8) **A person who is entitled to a beneficial interest in the land, or who will be entitled to such an interest if the order is made, shall be entitled to appear and be heard on an application for a vesting order, whether or not that person is a party to any contract or arrangement to which the application relates.**
- (9) This section shall be read subject to section 165 of this Act, section 4A of the Maori Vested Lands Administration Act 1954, and section 10 of the Maori Reserved Land Act 1955.

(emphasis added)

Kōrerorero

Discussion

[23] The issues for determination are:

- (a) Was an error made in fact or in law or in the presentation of the evidence to the Court which led to an error in the order complained of?
- (b) If so, is it necessary in the interests of justice to remedy the error by amending the order?

Was an error made?

[24] A key aspect of this case is whether the applicant has demonstrated a mistake, error or omission in the presentation of the facts of the case to the Court.

[25] In this respect, the minute of the Court at 31 Kaikohe MB 184–185 on 1 February 2002 expressly records that the applicant did not know about the proposed vesting. She received no notice despite her mother being directed on 13 December 2001 to advise “other interested parties of the Court hearing and any children, if applicable.”⁵

[26] The Report does not explore the Māori Land Court’s residual discretion to address the range of ways by which undivided interests may be transferred under s 164 of the Act.⁶ That discretion is necessary to assess whether the alienation gives rise to issues concerning the Preamble and ss 2 and 17 of the Act. In this case, the Court could not explore those issues fully because the applicant, as Violet’s only child, was not given the opportunity to argue the issues because she did not receive notice. While she had no right to veto the vesting, she had the right to be heard as per s 164(8). It was a breach of natural justice by the Court to not require notice to be given to her before proceeding to grant the s 164 order.

[27] Therefore, the Court erred as the principles of natural justice apply to proceedings of the Māori Land Court.⁷

Is it necessary in the interests of justice to remedy the error by amending the order?

[28] As I have determined that an error was made by the Court, and after taking into account the Preamble and ss 2 and 17, I consider that it is in the interests of justice to cancel the order made at 31 Kaikohe MB 184-185 on 1 February 2002.

Kupu whakataua me ngā Ōta *Decision & Orders*

[29] Having regard to the findings above, I make an order pursuant to s 44(1) of Te Ture Whenua Māori Act 1993 cancelling the order made 31 Kaikohe MB 184–185 on 1 February 2002.

⁵ Preliminary report and recommendation on an application under section 45 of Te Ture Whenua Māori Act 1993 to the Chief Judge (25 July 2025) at [8](f).

⁶ See *Matthews v Matthews – Succession to Graham Ngahina Matthews* [2015] Māori Appellate Court 512 (2015 APPEAL 512).

⁷ See *Nicolls v Nicolls – Part Papaaroha 6B Block* [2013] Māori Appellate Court 598 (2013 APPEAL 598).

[30] I also make an order pursuant to s 47(4) of Te Ture Whenua Māori Act 1993 making all other consequential amendments necessary to give effect to the above order.

[31] The Case Manager is directed to distribute a copy of this judgment to all parties.

I whakapuaki i te 11.00 am i Te Whanganui-a-Tara, tekau mā whitu o ngā rā o Tihema 2025.
Pronounced at 11.00 am in Wellington on this 17th day of December 2025.

C L Fox
CHIEF JUDGE