

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

In the Māori Land Court of New Zealand
Aotea District

AP-20250000012528

WEHENG <i>Under</i>	Section 238, Te Ture Whenua Māori Act 1993
MŌ TE TAKE <i>In the matter of</i>	Lot 1 DP 4866 and Section 1 SO 10359
I WAENGA I A <i>Between</i>	RUSSELL VICTOR GIBBS AS TRUSTEE OF THE RV & PJ GIBBS FAMILY TRUST Te Kaitono <i>Applicant</i>
ME <i>And</i>	TE ĀHURU TRUSTEE COMPANY LIMITED AS TRUSTEE OF THE RV & PJ GIBBS FAMILY TRUST Ngā Kaiurupare Tuatahi <i>First Respondents</i>
ME <i>And</i>	PARANI JOSEPHINE PARI AS TRUSTEE OF THE RV & PJ GIBBS FAMILY TRUST Ngā Kaiurupare Tuarua <i>Second Respondents</i>
Kōtitanga: <i>Hearing</i>	25 May 2026, Judicial Conference (Heard at Whanganui via Zoom)
Kanohi kitea: <i>Appearances</i>	R Gibbs in person N Williams for the First Respondents E Connole for the Second Respondents
Whakataunga: <i>Judgment date</i>	12 August 2026

TE WHAKATAUNGA A KAIWHAKAWĀ A H C WARREN
Judgment of Judge A H C Warren

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*He wā tōna hei purua i te moko***Hei tīmatanga kōrero***Introduction*

[1] This interlocutory decision concerns an application by the respondents for a stay of the proceedings commenced by Russell Gibbs in relation to the governance and administration of the RV & PJ Gibbs Family Trust (the Trust). It is applied for in circumstances where proceedings relating to the Trust are currently before the High Court seeking the removal of Mr Gibbs as a trustee.

[2] The stay application was made orally during a judicial conference on 27 May 2026, following which directions were made for the filing of written submissions. The applicants for the stay argue that it makes no sense to hear similar issues in both the High Court and this Court at the same time.

[3] Mr Gibbs disagrees and opposes the stay of proceedings. He submits that the relief sought in this Court is distinct from that sought in the High Court, that there are urgent matters requiring attention, and that this Court should exercise its jurisdiction in relation to the Trust and the Māori freehold land interests held within it.

[4] The issue for determination is therefore whether, notwithstanding this Court's potential jurisdiction, the interests of justice are best served by staying this proceeding pending determination of the related High Court proceedings.

Te horopaki*Background**The High Court proceedings*

[5] The substantive proceeding before the High Court concerns an application by Te Āhuru Trustee Company Ltd as one of the trustees of the Trust, seeking:

- (a) Removal of Russell Gibbs and Parani Pari as trustees of the Trust;
- (b) Amendment of the trust deed to allow the Trust to operate with a sole corporate trustee (Te Āhuru Trustee Company Ltd).

[6] The applicant in the High Court proceedings alleges that the Trust has become dysfunctional and deadlocked due to the deterioration of the relationship between Mr Gibbs and Ms Pari following their separation in 2020. The allegations include:

- (a) Inability of trustees to work together effectively;
- (b) Mismanagement of trust property;
- (c) Conflicts of interest involving other entities;
- (d) Use of trust funds for personal purposes;
- (e) Loss of trust resources through litigation and ongoing disputes;
- (f) Governance failures affecting administration of the trust and its farm assets; and
- (g) That the deadlock is preventing effective management of the Trust's principal asset, Tongapōrutu White Cliffs Station, and is contrary to the interests of the beneficiaries.

[7] In a recent judgment, Justice McHerron did not determine the merits of those allegations.¹ His Honour dealt only with procedural issues, namely whether the proceeding could continue as an originating application; and whether Mr Gibbs should be appointed litigation guardian for the minor beneficiaries.

[8] In the High Court, Mr Gibbs argued that the matter should proceed in this Court rather than the High Court on the basis that he had filed an application in this Court seeking:

- (a) Orders enforcing trustee duties;
- (b) Orders requiring trustees to attend meetings; and
- (c) Other governance-related directions concerning the Trust.

¹ *Te Āhuru Trustee Company Ltd v Gibbs* [2026] NZHC 1371.

[9] Mr Gibb's submitted that the Trust was within the scope of ss 236 and 237 of Te Ture Whenua Māori Act 1993 (the Act) because some trust land was Māori freehold land and Māori reservation land, and therefore relied on *Nikora v Kruger* as support for Māori Land Court involvement.² The High Court rejected the argument. Justice McHerron held that even if the Trust fell within s 236 of the Act, s 237(2) expressly preserves the jurisdiction of the High Court and that that court can therefore hear and determine applications under the Trusts Act 2019.³ Justice McHerron accepted an argument by the applicant that the proceedings before him concerned who should be trustees and how the Trust should be governed, rather than questions concerning ownership or administration of Māori land itself.

[10] To the extent Mr Gibbs was seeking a stay of the High Court proceeding pending the determination of the Māori Land Court application, Justice McHerron declined that request. His Honour considered that delaying the High Court proceeding would be counterproductive because it would impede efforts to resolve the disputes affecting the Trust and its beneficiaries.⁴ The Court noted that *Nikora v Kruger* concerned a post-settlement governance entity, not a family trust such as the Gibbs Family Trust, and therefore did not alter the High Court's jurisdiction in this case.⁵

[11] Justice McHerron concluded that the High Court is the appropriate forum to hear the trustee-removal application. The substantive application for removal of trustees will now proceed to a full hearing in the High Court. Further evidence is to be filed, and the matter is to be heard over five days after 1 September 2026.

[12] In short, the Court did not decide whether the trustees should be removed, but it held that the High Court, not the Māori Land Court, will determine that substantive question.

The Māori Land Court application

[13] The application seeking enforcement orders against other trustees before this Court is brought by Mr Gibbs under ss 236 and 238 of the Act, and seeks enforcement orders against the other trustees. The Trust predominantly holds general land, but also includes

² *Nikora v Kruger* [2024] NZSC 130.

³ *Te Āhuru Trustee Company Ltd v Gibbs* [2026] NZHC 1371 at [33].

⁴ *Te Āhuru Trustee Company Ltd v Gibbs* [2026] NZHC 1371 at [34].

⁵ *Te Āhuru Trustee Company Ltd v Gibbs* [2026] NZHC 1371 at [33].

Māori freehold land and a Māori reservation. Mr Gibbs submits that this brings the Trust within the Māori Land Court's jurisdiction. Mr Gibbs says that since December 2023 the other trustees have refused to attend trustee meetings, resulting in a governance deadlock. He therefore alleges the following:

- (a) Trust accounts for the years 2021/22 through 2025/26 remain unfinished;
- (b) Outstanding tax returns have not been filed;
- (c) Unauthorised withdrawals and spending from trust bank accounts remain unresolved;
- (d) The trust is unable to ascertain its financial position; and
- (e) The trust is unable to meet current liabilities.

[14] He seeks orders requiring:

- (a) Attendance at trustee meetings;
- (b) Confirmation and implementation of resolutions said to have been passed at a trustee meeting on 9 December 2023;
- (c) Trustee training every three years;
- (d) Trustee meetings at least every two months;
- (e) A moratorium on major trust decisions until financial accounts and tax issues are resolved; and
- (f) The filing of reports by trustees and their appearance before the Court for questioning concerning trust administration.

[15] Mr Gibbs relies particularly on ss 238 and 240 of the Act, arguing that the Court should first enforce trustee obligations before any question of trustee removal is considered.

[16] Both the High Court and Māori Land Court proceedings concern dysfunction of trustees at some level. Mr Gibbs says the Trust has become paralysed because the other trustees refuse to participate in governance processes, and that urgent enforcement orders are required to restore administration of the Trust and resolve financial and taxation issues. The High Court, however, has already recognised the existence of serious trustee conflict and has directed that the substantive question of whether Mr Gibbs and Ms Pari should remain trustees proceed to trial.

[17] Based on Mr Gibbs' application in this Court I accept that the central question is not about the removal of trustees per se, although as he concedes removal is an option.

Te ture

Relevant law

Jurisdiction to grant a stay of proceedings

[18] The Māori Land Court does not have a specific general statutory power to grant a stay of proceedings. The only express provisions of the Act are:

43 Rehearings

(1) Subject to subsection (2), on an application made in accordance with the rules of court by any person interested in any matter in respect of which the court has made an order, the Judge by whom the order was made or any other Judge may order a rehearing upon such terms as the Judge thinks reasonable, and in the meantime may stay the proceedings.

59 Appeals from provisional determinations

...

(4) When leave to appeal is so given, the Maori Land Court may either stay further proceedings in the matter or continue the same, but no final order shall be made until the appeal has been finally disposed of or dismissed.

[19] That said, r 6.28A of the Māori Land Court Rules 2011 which came into force earlier this year do reference the ability to stay proceedings. That ability is generally given in the context of the Court considering whether to strike out all or part of a pleading. This rule nonetheless does not affect the Court's inherent powers to grant stays, as confirmed in *McMenamin v Attorney-General*; and in *Taueki – Horowhenua 11 (Lake)*.⁶

⁶ The Court of Appeal in *McMenamin v Attorney-General* [1985] 2 NZLR 274 confirmed that an inferior court may do what is necessary to enable it to exercise its statutory functions and ensure fairness. The Māori Land Court has applied this principle, recognising that it may grant a stay to prevent abuse of process and to ensure its procedures are used fairly. As is common most applications in this court relate

[20] When considering an application for a stay, the Court applies the principles as set out in *Dymocks Franchise Systems (NSW) Pty Ltd v Bilgola Enterprises Ltd*, namely:⁷

- (a) If no stay is granted will the applicant's right of appeal be rendered nugatory?
- (b) The bona fides of the applicants as to the prosecution of the appeal
- (c) Will the successful party be injuriously affected by the stay?
- (d) The effect on third parties
- (e) The novelty and importance of the question involved
- (f) The public interest in the proceedings and
- (g) The overall balance of convenience

[21] This stay application does not arise in the context of an appeal, but rather a situation of which court the issues facing the Trust ought to be heard and determined. In a context where two of the three trustees support the issues being addressed by the High Court. In that sense, when exercising my discretion to grant a stay or not, I will naturally place weight on the question of prejudice to each party, including the overall balance of convenience. This is not a situation where legal rights or appeal rights will be affected by not granting a stay.

Te kōrerorero *Discussion*

Should I grant a stay?

[22] I find that whilst the application to this Court is different in form, it is in many respects substantively the same. It is about trustee dysfunction and a continuing impasse due to the relationship breakdown of two of the trustees. The fact that the High Court

to stay pending an appeal. In *Taueki – Horowhenua II (Lake)* (2012) 279 Aotea MB 101, the Court held that the power to grant a stay is part of the inherent jurisdiction to protect an appellant's right of appeal where refusal would render the appeal nugatory.

⁷ *Dymocks Franchise Systems (NSW) Pty Ltd v Bilgola Enterprises Ltd* (1999) 13 PRNZ 48 (HC) (CA) at [9]; and adopted in *Tito v Tito – Mangakahia 2B2 No 2A1A [2011] Māori Appellate Court MB 527 (2011 APPEAL 527)*, *Naera v Fenwick – Whakapoungakau 24 [2011] Māori Appellate Court MB 301 (2011 APPEAL 301)*, and *Hoete v Faulkner – Motiti North C1 Block* (2017) 140 Waikato Maniapoto MB 1 (140 WMN 1), in the context of a pending appeal,

proceedings are well advanced, with timetabling directions issued, coupled with the fact that two of the three trustees support staying these proceedings, justifies granting a stay.

[23] I nonetheless disagree with the argument advanced by Mr Williams in the High Court that in effect the focus on this Court's jurisdiction over trusts relates primarily to questions concerning ownership or administration of Māori land itself. With respect there is clear authority that this Court has very broad supervisory powers, and in some circumstances all the same powers as the High Court including its inherent jurisdiction.⁸ It can also deal with non-Māori land held by trusts that fall under the Court's jurisdiction. This jurisdiction is far broader than land ownership or administration of Māori land and it can address all the matters currently before the High Court. Be that as it may, that fact does not displace my view that a stay is justified, given it makes no sense to advance both in tandem.

[24] I find that there will be little material prejudice to Mr Gibbs if I stay the proceedings before this Court, primarily because the High Court will determine a fundamental issue as to his future trusteeship. I do however find that there will be prejudice to all parties if they are required to manage two proceedings in tandem, including the potential financial impact on the ultimate beneficiaries. It makes no sense to deplete limited funds when the removal application will potentially resolve the core issues. In that sense the balance of convenience supports the granting of a stay.

[25] I am not convinced that allowing the s 238 application to proceed adds any value to the Trust and its beneficiaries, given the ultimate issue of removal will be heard and determined by the High Court shortly.

Te whakataunga *Decision*

[26] In this context and for the reasons given, the interests of justice determine that a stay should be granted.

⁸ Te Ture Whenua Māori Act 1993, s 237.

[27] I accordingly make an interlocutory order and stay the proceedings before the Māori Land Court until the final determination of the removal proceedings presently before the High Court. I make this interlocutory order, in reliance on my inherent powers.

[28] Costs are reserved until the matter returns to this Court in due course.

I whakapuaki i te 2:00 pm i Kirikiriroa, tekau ma rua o ngā ra o Ākuhata I tau 2026
Pronounced at 2:00 pm in Hamilton on the 12th day of August 2026.

A H C Warren
KAIWHAKAWĀ
JUDGE