

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

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

AP-20240000000871
CJ 2024/6

WEHENG <i>Under</i>	Section 45, Te Ture Whenua Māori Act 1993
MŌ TE TAKE <i>In the matter of</i>	Waitakaruru 1A1B2C and D1
I WAENGA I A <i>Between</i>	ARNOLD GURAU AND WILLIAM CASTLE Ngā Kaitono <i>Applicants</i>
ME <i>And</i>	NOELENE ROKA DANFORD Te Kaiurupare <i>Respondent</i>

Kōtitanga: <i>Hearing</i>	18 March 2026, 2026 Chief Judge's MB 477-500 (Heard at Wellington by zoom)
Kanohi kitea: <i>Appearances</i>	T Barker for Respondent
Whakataunga: <i>Judgment date</i>	1 May 2026

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

Hei tīmatanga kōrero

Introduction

[1] Arnold Gurau and William Castle filed an application pursuant to section 45 of Te Ture Whenua Māori Act 1993 (“the Act”) seeking that I exercise my jurisdiction as Chief Judge under s 44 of the Act to amend the order made at 104 Hauraki MB 228 on 6 March 2003 relating to the vesting of shares in Waitakaruru 1A1B2C and D1 in favour of Charles Henare Rind.

[2] The applicants claim that the order is incorrect due to a mistake, error, or omission in the presentation of the facts of the case to the Court.

Kōrero whānui

Background

[3] The Registrar's Preliminary Report and Recommendation dated 1 December 2025 (“the Registrar's report”) sets out the background to this application in detail. It 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 on 30 January 2024 by Arnold Thomas Gurau and William Thomas Castle (the applicants), seeks to amend or cancel the order made at 104 Hauraki MB 228 on 6 March 2003. The order relates to the transfer of William Thomas Castle's interest in Waitakaruru 1A1B2C and D1 amounting to 6.07693 shares to Charles Henare Rhind by way of gift.
- [2] The applicants claim the order is incorrect due to a mistake, error or omission in the presentation of the facts of the case to the court.
- [3] The following sets the background of the application:
 - (a) The applicant William Thomas Castle and Lesley Remana Castle were shareholders in Waitakaruru 1A1B2C and D1. Their shares were derived from William Thomas Castle.¹

¹ 6 Registrar MB 37 (6 RGWM 37).

- (b) The applicant William Thomas Castle is the son of William Thomas Castle. For ease of identification, William's father will be referred to as William Snr and the applicant as William Jnr in this report.
- (c) Lesley Remana Castle (Lesley) was the wife of William Snr. They did not have any children. William Jnr is William Snr's son from a different union.
- (d) Charles Henare Rhind is a first cousin to William Jnr. He is a son of William Snr's sister Puataka Rhind. Charles was then a sharemilker employed by Lesley.²
- (e) William Thomas Castle Snr died on 18 March 1991. He left a will dated 14 November 1988, leaving his interest in Waitakaruru 1A1B2C and D1 to his son, nephew, and the trustees of Tomaru Trust. Clauses 4(a) to (c) of William Snr's will, read, as follows:

4. I GIVE my interests in land as follows:

- (a) 6.0793 of my shares in Waitakaruru 1A 1B 2C and D1 to my son WILLIAM THOMAS CASTLE.
- (b) 6.0792 of my shares in Waitakaruru 1A 1B 2C and D1 to my nephew CYRIL WILLIAM NIGEL CASTLE.
- (c) 6.0793 shares of my shares in Waitakaruru 1A 1B 2C and D1 to the trustees of the TOMARU TRUST the said WILLIAM THOMAS CASTLE, the said CYRIL WILLIAM NIGEL CASTLE and my nephew WILLIAM RHIND UPON TRUST to do all things necessary to partition that part of the land containing the family cemetery including necessary accessways and to vest the land in the URUPA DEVELOPMENT for use as a burial ground for members of the Castle family. Administration of the burial ground is to be vested in the Anglican Church.

...

- (f) William Snr's will was granted probate on 23 April 1991. The administration of his estate was granted to Ian Robert Souster.³ Pursuant to s 81 of the Māori Affairs Amendment Act 1967, on 15 September 1995, the court vested William Snr's Māori land interests in Ian Robert Souster.⁴ On 20 December 1995, those interests were vested in the persons beneficially entitled under s 81A. William Jnr and Lesley received 6.07693 and 6.07692 shares, respectively, in Waitakaruru 1A1B2C and D1:

² 103 Hauraki MB 107-116 (103 H 107-116) at 110.

³ P.852/91 – William Thomas Castle, 23 April 1991.

⁴ 7 Registrars (Section 81/67) MB 86 (7 ADWM 86).

6 Registrar Minute Book Folio 37
of Vesting Order dated the 20th day of December 1995

SCHEDULE

Block	Interest and Value	Successors and Addresses	Sex	Proportion	Shares
Waitakaruru 1A1B2C and D1	18,23078 \$34,615.40	William Thomas Castle	m	1/3	6.07693
		Cyril William Nigel Castle 81 Tonar Street Northcote AUCKLAND	m	1/3	6.07693
		Lesley Remana Castle 5 Charles Street Papatoetoe AUCKLAND	f	1/3	6.07692
Whangamata 8B3B2	6.7690 \$16,075.28	Cyril William Nigel Castle	m	1/2	3.3845
		Lesley Remana Castle	f	1/2	3.3845

- (g) On 6 March 2003, at 104 Hauraki MB 228, William Jnr transferred his 6.07693 shares in Waitakaruru 1A1B2C and D1 to Charles Henare Rhind.
- [4] The applicants claim that William Jnr agreed to transfer his shares to Charles Henare Rhind in consideration of the agreement entered into between him and Lesley in exchange for Lesley's 6.07692 shares in the block. Lesley did not honour her part of the agreement, instead, she left her shares to Noelene Roka Danford by will.
- [5] William Jnr claims he is adversely affected by the order as he is now left with nothing from his father to pass on to his children.

He kōrero tuku iho

Background

- [6] On 10 October 2002, William Jnr filed an application for orders pursuant to s 164 of the 1993 Act, to vest his 6.07693 shares in Waitakaruru 1A1B2C and D1 in Charles Henare Rhind by way of gift.
- [7] The application was heard on 27 November 2002 before Judge C L Wickliffe. The minute records that William Jnr was residing in Australia and was not present at the hearing. After hearing from Charles Henare Rhind, Her Honour adjourned the proceedings to give the court an opportunity to ascertain whether William Jnr understood the value of the shares he was gifting, and an opportunity for William to discuss the gifting with his children.⁵
- [8] On 6 March 2003, Judge S Te A Milroy noted that the information required from William Jnr was received, and an order was made vesting William Jnr's shares in Waitakaruru 1A1B2C and D1 in Charles Henare Rhind pursuant to s 164.

Ngā kōrero taunaki

Supporting or other information

- [9] In support of the application, the applicants submitted the following:

⁵ 104 Hauraki MB169-172 (104 H 169-172).

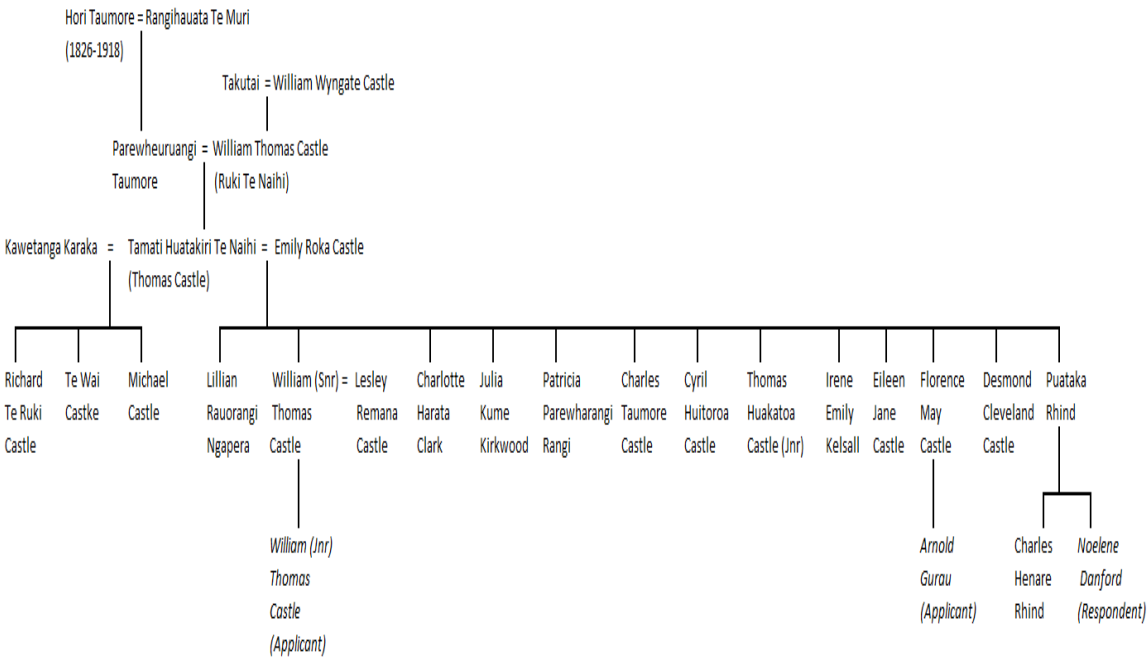
- (a) copy of 104 Hauraki MB 169-172 dated 27 November 2002; and
 - (b) whakapapa.
- [10] On 14 May 2025, Coral Kaumoana, on behalf of Noelene Roka Danford sent her response to the application.
- (a) Lesley Remana Castle passed away on 9 June 2022 with a will naming Noelene Roka Danford as beneficiary of her 6.0792 shares in Waitakaruru 1A1B2C and D1.
 - (b) Noelene claims that Lesley's will is valid, that there is no error in the court record, and that the current application is a delay tactic, lodged without merit, and unsupported by credible evidence.
 - (c) Noelene intends to gift these shares back to Taumore according to the original intention of William Snr. She wrote as follows:
 - 4. 4. Gifting Back to Taumore – Realigning with Original Intent
 - - Upon confirmation of succession, Noelene Roka Danford intends to gift these shares back to Taumore, as was always intended by her uncle, William Thomas Castle (Uncle Billy).
 - This action restores the whenua to its rightful place and ensures all lines who whakapapa back to Taumore benefit.
 - The whānau's commitment is not personal gain, but honouring a koha that was made decades ago.
 - 5. 5. Discovery of Uncle Billy's Will – A Monumental Moment
 - - The whānau has recently located Uncle Billy's will, which confirms he had set aside provision for Taumore.
 - Although the trust name was misspelt as "Tomaru Trust," this was clearly intended to refer to Taumore.
 - For years, the whānau upheld this gift through oral history – now validated in writing – and supported the whenua through voluntary maintenance, upkeep, and expenses since 1989.
 - This finding brings the kaupapa full circle and provides legal grounding to what we've always known and practised.
 - (d) In support of her opposition, Noelene submitted the following:
 - (i) Whakapapa
 - (ii) P. 852/91 dated 23 April 1991 – Probate and will of William Castle

Te rangahau a te kooti

Court research

- [11] William Thomas Castle Jnr and Arnold Gurau, are first cousins to the siblings Charles Henare and Noelene Roka Danford. They are all grandchildren to Tamati Hautakiri Te Naihi also known as Thomas Castle from whom the interest in Waitakaruru 1A1B2C and D1 was derived.

[12] Below is their whakapapa as compiled from court records and the documents submitted in evidence:



[13] Tamati Hautakiri Te Naihi, or Thomas Castle was declared as the sole owner of Waitakaruru 1A1B2C and D1 in a partition order dated 10 August 1937. The block contains 79 acres.⁶ Tamati Hautakiri Te Naihi died on 23 August 1959 with a will, leaving his interests to his 13 children with Emily Roka. On 2 July 1962, an order was made vesting Tamati Hautakiri Te Naihi’s interest in Waitakaruru 1A1B2C and D1 in the 13 children, equally.⁷

[14] The consolidated order dated 13 January 1964 records the shareholdings of the beneficiaries, as follows:⁸

Name		Relative Interests
1.	Charles Taumore Castle	6.07692
2.	Charlotte Harata Clark	6.07693
3.	Cyril Hui Castle	6.07692
4.	Desmond Cleveland Castle	6.07692
5.	Eileen Jane Castle	6.07692
6.	Florence May Castle	6.07692
7.	Irene Emily Kelsall	6.07692
8.	Julia Kume Kirkwood	6.07693
9.	Lillian Rauorangi Ngapera	6.07693
10.	Patricia Parewharangi Rangi	6.07692
11.	Puataka Ryan	6.07692
12.	Thomas Huakatoa Castle	6.07692
13.	William Thomas Castle	6.07693
Total Shares		79.00000

⁶ 71 Hauraki MB 3 (71 H 3).
⁷ 78 Hauraki MB 7 (78 H 7).
⁸ 78 Hauraki MB 257 (78 H 257).

- [15] On 10 July 1973, Thomas Huakatoa Castle (12 above) sold his 6.07692 shares to the Māori Trustee.⁹ On 5 September 1997, the Māori Trustee's shares were revested in all the owners by reduction of total block shares by 6.07692, reducing the total number of shares from 79.00000 to 72.92308.¹⁰
- [16] On 19 September 1983, Julia Kume Kirkwood (8 above) and Puataka Rhind (10 above) transferred their shares to William Snr by way of gift.¹¹ These giftings increased William Snr's total shareholding in the block to 18.23078 shares out of the 72.92308 total shares.
- [17] Charles Henare Rhind died on 29 November 2020. At the time of his death he had a total of 24.3077 shares in Waitakaruru 1A1B2C and D1, including the shares received from William Jnr. Succession to Charles was ordered on 30 July 2021.¹² His interest in the block was vested in Grant Henare Rhind and Stephen Ngawati Rhind, as trustees of the Charles Henare Rhind Whānau Trust.
- [18] Lesley Remana Castle died on 9 June 2022 with a will dated 23 December 2020 leaving her 6.07692 shares in Waitakaruru 1A1B2C and D1 to Noelene Roka Danford (nee Rhind). Lesley's will was granted probate on 4 November 2022.
- [19] On 28 June 2023, Noelene Roka Danford applied for succession to Lesley Remana Castle. Noelene's application came before Judge R P Mullins on 8 February 2024. William Jnr opposed the application on the basis of the verbal arrangement he had with Lesley that William Jnr would receive Lesley's share in Waitakaruru 1A1B2C and D1 in exchange for the shares he transferred to Charles.¹³ After hearing from parties, Judge Mullins adjourned the proceedings to await the outcome of this application.
- [20] Currently there are 9 owners in the block. The block is administered by the Waitakaruru 1A1B2C and D1 Trust. The trust was constituted on 2 July 1990, with William Thomas Castle Snr and Charles Henare Rhind as two of the five original trustees.¹⁴
- [21] Court records also reveal that the Taumore Trust was never constituted. A decision of the Court dated 3 August 2001, records as follows:¹⁵

In the Court on 2 July 1990 William indicated that part of the reason for establishing the Trust was because he wanted to establish a papakainga on the property and have this run by the Trust. William wished to set aside 6 acres of the block as a papakainga for the owners. Initially he wanted to form this as a separate Trust to be called Taumore Trust and there was reference to this Trust in his Will which was made in 1988. However the Taumore Trust was never formed and Charles Henare Rhind said in evidence that William told him that once he had established the Section 438 Trust he did not see any need to establish a further Trust for the papakainga area.

⁹ Agreement for Sale and purchase between the Māori Trustee and T H Castle dated 10 July 1973, and certificate evidencing purchase dated 16 July 1973.

¹⁰ TN 64/10 – Certificate of Revesting by Māori Trustee dated 5 September 1997.

¹¹ 15 Auckland MB 125 (15AT 125).

¹² 227 Waikato Maniapoto MB 98-105 (227 WMN 98-105).

¹³ 263 Waikato Maniapoto MB 247-257 (263 WMN 247-257).

¹⁴ 91 Hauraki MB 174 (91 H 174).

¹⁵ 103 Hauraki MB 107-116 (103 H 107-116) at 109.

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

- [22] 227 Waikato Maniapoto MB 98-105 dated 30 July 2021, relating to the constitution of the Charles Henare Rhind Whānau Trust

Te utunga nā te putanga o te ōta

Payments made because of the order

- [23] There were no payments made as a result of the order.

Ngā āhuatanga i rararu ai

Areas of difficulty

- [24] The will of William Thomas Castle Snr did not leave any provision relating to his interest in Waitakaruru 1A1B2C and D1 to Lesley Castle. In the order of 20 December 1995, however, 1/3 of William Snr's interest in the block equivalent to 6.07692 shares were vested in Lesley Remana Castle.

Āe rānei, he take o tana haere ki tētahi kootitanga

Consideration of whether matter needs to go to hearing

- [25] It can be inferred from the response of Noelene Roka Danford that an agreement may have been made as there was an intention for the return of those shares.
- [26] A court hearing is required to enable the Court to hear from parties and for final determination of the application.

Te tūtohunga hei whai

Recommendation of course of action to be taken

- [27] I recommend that:
- (a) A copy of the report be distributed to the affected parties;
 - (b) The applicants and the respondent are to file their evidence in response to the report within four weeks of receipt of the report; and
 - (c) The matter be set down for hearing via Zoom at the Chief Judge's sitting for March 2026 to enable the Court to hear from parties. Time and date of the hearing will be advised in due course.

Ko te hātepe ture o te tono nei

Procedural history

- [4] On 5 September, counsel for the respondent, Ms Barker, expressed concern regarding the length of time this matter had been before the Chief Judge. On 10 September 2025, in

response, I set a timetable for dealing with this application.¹⁶

[5] On 1 December 2025, a copy of the Registrar's report was sent to all parties with known addresses, giving them an opportunity to respond.

[6] On 18 February 2026, the applicants and various supportive whānau members submitted their responses to the report by way of statements and affidavits.

[7] On 20 February 2026 and 13 March 2026, Coral Dehar or Kaumoana submitted affidavits and statements on behalf of the respondent.

Te nohoanga a te kooti

The hearing

[8] The s 45 application was heard before me in Wellington (via Zoom) on 18 March 2026. In her submission, the case manager summarised all the statements and affidavits filed and discussed below. That summary, recorded at 2026 Chief Judge's MB 477-480, is also relied upon for the purposes of this judgment.

Ngā kōrero mō ngā kaitono

Statements for the applicants

[9] William Jnr noted in his statement that Lesley Remana Castle was married to his father, but William Jnr was raised by his mother. He later moved to live on the Waitakaruru farm. William Snr and Lesley later took charge of the farm. He became estranged from his father during his teenage years. It was his view that Lesley tried to keep them apart. As a young adult he moved to Australia. Later attempts to connect with his father, he claims, were obstructed by Lesley, but finally his father did agree to meet, and he acknowledged William Jnr as his son. Under questioning by counsel for the respondent he conceded that he did not find Lesley untrustworthy, despite the tension that existed between them.

[10] According to William Jnr, his father explained his intent behind his will, namely that William Snr would leave equal shares in Waitakaruru 1A1B2C and D1 to William Jnr and his cousin Cyril William Nigel Castle, and he would leave a third parcel to Taumore Trust for the urupā and papakāinga.

¹⁶ 2025 Chief Judge's MB 1354-1355 (2025 CJ 1354-1355).

[11] William Jnr alleges that after the tangi for William Snr, Lesley contacted him several times to transfer his shares to Charles Rhind, the manager of the family farm. Finally, he agreed because Lesley told him that she would give her shares in the same block to William Jnr, so he agreed to the arrangement on that basis. Under questioning at the hearing, he agreed that there was no evidence to corroborate his understanding that there was an agreement.

[12] I note that neither the minutes of the Court at 104 Hauraki MB 228 on 6 March 2003, nor any of the documents before it on file, record any evidence of this arrangement. What is recorded is that prior to the vesting order being made at 104 Hauraki MB 228 on 6 March 2003, William Jnr complied with all directions of the Court, namely that William Jnr file a declaration that he understood the value of the shares he was gifting, and that he had discussed the matter with his whānau.

[13] He claims he did not know at the time that Charles Henare Rhind was already an owner of shares in the block.

[14] William Jnr was supported by his co-applicant Arnold Thomas Gurau, son of Florence May Gurau (née Castle). Arnold was himself supported by 11 of his cousins. He is the kaumatua of the whānau. Hori Taumore was their tupuna from whom the land was derived. William Jnr is his cousin. Florence, his mother, was William Snr's sister. He is a trustee and the Chairperson of the Waitakaruru 1A1B2C and D1 Trust.

[15] Arnold seeks the cancellation of the order made at 104 Hauraki MB 228 on 6 March 2003 and an order that the shares acquired by Lesley Remana Castle "through the overturning of her husband's will, be vested in William Jnr." He further seeks the dismissal of the application for succession filed by Nolene Danford. The basis for this is, he claimed was:

- 4.1.1 William Jnr was deceived by Lesley Remana Castle and Charles Rind under false pretences to acquire his shares;
- 4.1.2 He believed Lesley would honour her word and leave her shares to him;
- 4.1.3 He believed he was acting in the best interests of the whānau when he agreed to gift his shares to Charles Rhind.
- 4.1.4 He was not aware that Lesley had overturned his father's will.

4.1.5 He was not aware that other Castle whānau shares had been acquired.

4.1.6 He was not aware that Lesley had trespassed Castle whānau from their own land.

[16] Under questioning by counsel for the respondent Arnold agreed he had no direct knowledge of the alleged agreement with Lesley.

[17] He did support the view that Lesley overturned William Snr's will. He considered that the consequence of the High Court, "overturning Uncle Billy's Will empowered Lesley to take advantage for her own benefit." This result was not understood or challenged by the trustees of that time, and the Māori Land Court, he claimed, facilitated the alienation of the shares to Lesley and further vesting by the Māori Trustee. Under questioning, he agreed that now that he knows what happened in the High Court, he accepts Lesley did not overturn the will.

[18] He was aggrieved that Noelene does not accept the applicants' recounting of events, and that she contends the application before the Chief Judge is without merit.

[19] Arnold alleged that Noelene is not a bloodline descendent and not a rightful successor. He argues that the whakapapa appearing in the Registrar's Report is wrong. Under cross-examination, he conceded that Nolene has a whakapapa connection to the Castle whānau, but not to the Taumore lands, Waitakaruru 1A1B2C and D1.

[20] Arnold noted that the trustees have applied to the Māori Land Court to have an area set aside as a reservation for Taumore Papakainga. Noelene and her whānau oppose this.

[21] He seeks the s 44 order be granted in accordance with the tikanga relevant to the whānau.

[22] The applicants were supported by Lindsey Noel Castle, who advised that Lesley and Charles Rhind formed a business partnership and assumed the lease of the farm. Lindsey's deceased husband (Charles Taumore Castle) and the other trustees were unaware of this. She also referred to several other matters in an attempt to demonstrate the alleged hostility by Lesley towards the Castle whānau. She believed that William Jnr was deceived into giving up his shares.

[23] The applicants were also supported by Thomas Te Kahu Ngapera, whose brother Richard (a whāngai) was asked to sell shares to Charles Rhind by Lesley. The rest of the whānau were not consulted, leading to the alienation of his whāngai mother's shares. His mother was a sister to William Snr.

[24] Robert Edwin Charles Castle supported the applicants. His father was Cyril, a brother to William Jnr. He gave evidence that he had observed Lesley using the police to trespass his brother off the land.

[25] Miro Marilyn Te Wao gave a statement to support the applicants. Her mother was Patricia Parewheururangi Castle, a sister to William Snr. She claimed to have been present when a member of the whānau, Rona Kirkwood, was told to leave the bach on the land by the Rhind whānau, as Charles Rhind was in the process of buying it. She further claimed that Lesley asked her to sell her shares, but she refused. In addition, Lesley attempted to acquire shares from her Charlotte Clark when she was ill. Due to this history associated with Lesley and Charles Rhind, she submitted that the ahu whenua trust became dysfunctional and has only recovered in recent times. She has now been nominated as a trustee for the reservation, Taumore Papakainga.

[26] Kayla Clark gave a statement. She is a granddaughter of Charlotte Clark (née Castle). She alleged that when her grandmother was in the hospice, severely unwell, she was visited by Lesley and Charles Rhind and asked to give over her shares. Later they made attempts to succeed to those shares. When Kayla applied for succession, Lesley expressed "anger and distrust" about it. In 2023, Kayla succeeded to those shares. She is now a trustee and secretary of the Waitakaruru 1A1B2C and D1 Trust and a nominated trustee for the Taumore Papakainga reservation.

[27] Giovanni Geoffrey Rasmuss Demetrius Fabriciua gave a statement. He is the adopted father and fulltime caregiver of Bruce Olaf Gurau-Fabricius, the younger brother of Arnold, one of the applicants. He states that Lesley contacted him to sell Bruce's shares to her and Charles Rhind. She offered \$5,000 for the shares. He initially agreed, until Arnold stepped in and bought the shares.

[28] The final statement of support was from Gloria Patricia Pokaitara. She is the daughter of Desmond Castle, a brother of William Snr. Her father and William Snr were the instigators of the Taumore Papakainga. Activity has dwindled due to the lack of unity in the whānau.

Ngā kōrero mō ngā kaiurupare

Statements for the respondents

[29] Ms Coral Dehar or Kaumoana responded for her mother, Noelene Roka Danford (née Rhind). Her first affidavit of 20 February 2026 was filed in opposition to the application. She noted that no written agreement evidencing the alleged agreement reached between William Jnr and Lesley Remana Castle has been produced by the applicants. Lesley was the owner of her shares in Waitakaruru 1A1B2C and D1. She left those shares by will to Noelene Roka Danford. There is no reference to any agreement with William Jnr in Lesley's will. Nor is there any reference to such an agreement in the Māori Land Court records at 104 Hauraki MB 228 dated 6 March 2003.

[30] She further noted that she attended a hui organised by Arnold Gurau on 16 February 2025. At that hui, she claimed, Arnold confirmed that, "payment had been made in relation to the transfer of William Jnr's shares." She was also aware that payment was made to her grandmother (Puataka Rhind) for shares in the same block. She contended that it has been common practice within the whānau for share transfers to be recorded through the Court as "gifts", while, "private payment arrangements occurred between the parties." So, in her submission, the use of the word "gift" in the Court record does not necessarily indicate the absence of payment. I note the fact that this approach would have misled the Court is not acknowledged.

[31] Coral and her mother are keen to explore how to vest the shares in the Taumore Papakainga reservation, once succession to Lesley is complete. She sought dismissal of the application.

[32] She attached as "Annex A" to her affidavit correspondence written (with assistance from Coral) by her mother Noelene. She also attached her response to the application filed with the case manager on 14 May 2025. In that correspondence she noted *inter-alia* that:

there was an owner, Lesley Remana Castle; she left a valid will in favour of Noelene for her Waitakaruru 1A1B2C and D1 shares; Noelene is of the preferred class as she is a bloodline descendent; there was no factual or legal error in the Court record with respect to the vesting in Charles Rhind recorded at 104 Hauraki MB 228 on 6 March 2003; the s 45 application is a delay tactic lodged without merit; Noelene intends to gift the shares back to Taumore as intended by William Snr and as outlined in his will.

[33] A second affidavit was filed on 13 March 2026 from Coral Dehar or Kaumoana responding to the many statements and evidence filed in support of the applicants. She reviewed the history of how the lower Court application took place resulting in the vesting of William Jnr's shares in Charles Rhind, noting William Jnr had the "time and space" to consider the value of the shares and to discuss the matter with his whānau. She reiterated there was nothing on the Court record indicating the existence of the conditional agreement William Jnr alleges he had with Lesley: "... 'share for share' swap, token purchase, or private understanding." She noted that William Jnr has had twenty years to challenge the vesting order if he believed he was misled. He has only now challenged the order after both Charles and Lesley have passed away.

[34] With respect to William Snr's will, she noted that as Taumore Trust was not constituted at the time of administration; that the executor of William Snr's estate made the application for directions to the High Court; that the gift to the trust was treated as a failed gift that fell into the residuary estate; and that the residuary estate (including the third parcel of shares) was vested in Lesley under the will. Therefore, it is not correct to say Lesley overturned the will. Rather it was the High Court that made the determination.

[35] Coral contended that the whakapapa she provided in support of her case was not wrong, as everyone understood that Puataka Rhind (or Ryan) was a whāngai child of Thomas Castle. Puataka succeeded along with her 12 siblings to Thomas by order dated 2 July 1962, confirmed by consolidated order dated 13 February 1964. Upon questioning by her counsel, Coral conceded that Noelene's whakapapa does not take her through to the Waitakaruru 1A1B2C and 1D block.

[36] The statement Coral attached from Noelene, asserted that Noelene descends by blood through her father Daniel William Taniora Rhind. Noelene also responded to statements

made by those who stated that Lesley and Charles pressured Charlotte Clark to sell her shares. Noelene worked at the hospice at the relevant time and never saw Lesley visit Charlotte.

[37] Stephen Ngawati Rhind provided a statement in defence of his father Charles Rhind. He acknowledged the hurt in the whānau and expressed empathy to all affected. He noted that some whānau members may not be aware that share owners approached Lesley and Charles to sell their shares. He further noted that even where Lesley and Charles were actively seeking to purchase shares, they were not engaging in any wrongdoing. Therefore, he challenged those who were angry to consider whether it was warranted. He reminded the whānau that his father:

... spent a significant part of his life serving his whānau. He was appointed a founding trustee of the Taumore Papakainga, served as a trustee of the Waitakaruru IA1B2C and D1 block, and for almost 25 years he assisted in the maintenance and upkeep of the papakainga while he lived next door. There are few who contributed as much as our father did.

[38] His whānau have tried to find a constructive way forward for the whānau wanting to continue working, "... towards unity, healing and progress."

[39] Grant Henare Rhind gave a statement stating that his father, Charles Rhind, cared deeply for the whānau. He advised that Lesley treated Charles as a son; and he described how Charles came to farm the whenua and how hard-working Lesley was.

[40] Sarah Rose, married to Stephen Rhind, gave a statement painting a picture of Lesley as a hard worker and a forceful character.

[41] In submissions for the respondents, counsel, Ms Barker, stated that the respondents are opposed to the cancellation of the vesting order made on 6th March 2003.

[42] After hearing from parties, I reserved my decision.

[43] On 27 March 2026, reply submissions and evidence were filed by Arnold Gurau on behalf of the applicants. I have not taken into account the evidence filed as it was too late to be considered without giving the respondents an opportunity to see it. I address the submissions in reply below.

Te ture*The law*

[44] 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:

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, 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.

[45] In *Ashwell – Rawinia or Lavinia Ashwell (nee Russell)*, the principles to be applied in determining applications made pursuant to s 45 were listed as follows:¹⁷

- When considering section 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

¹⁷ *Ashwell – Rawinia or Lavinia Ashwell (nee Russell)* [2009] Chief Judge's MB 209 (2009 CJ 209) at [15].

- 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.

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

[47] As stated in *Tau v Nga Whānau o Morven and Glenavy – Waihao 903 Section IX Block*, the Chief Judge must exercise their 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.¹⁸ This means that the applicant must establish on the balance of probabilities that there was a mistake or omission.

[48] The Court of Appeal has confirmed that the power under s 44(1) falls into two parts:¹⁹

The first is an evaluative decision as to whether the order made 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.” 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.

¹⁸ *Tau v Nga Whanau O Morven & Glenavy – Waihao 903 Section IX Block* [2010] Māori Appellate Court MB 167 (2010 APPEAL 167).

¹⁹ *Inia v Julian* [2020] NZCA 423 at [10].

Te uiuinga tuatahi*The first issue*

[49] The first issue to determine is whether the 104 Hauraki MB 228 on 6 March 2003 was erroneous in fact or in law because of any mistake or omission on the part of the Court.

[50] The respondent argues there was no mistake, error or omission made. The challenge is solely to the vesting order under s 164 made on 6 March 2003. William Jnr was aware of the Court proceedings, and he signed a statutory declaration that he was aware of the value of the shares and that he had discussed the gift with his whānau. There was no indication there was an error in the presentation of facts to the Court. William Jnr did not disclose the existence of the purported agreement to the Court, and he did not do so for over 20 years. The respondents question why William Jnr did not raise the issue while Lesley and Charles were alive. Furthermore, there is no corroborating evidence that such an agreement even existed.

[51] The applicants in reply state that there was a “reciprocal arrangement” which they openly acknowledge was not disclosed and they contend that therefore there was an omission in the presentation of facts to the Court. The transaction occurred, they claim, within a collective whānau framework under the mana of the Taumore Trust and within a reciprocal arrangement the Court was never told about. They say that an order made without this tikanga context cannot be said to “reflect tika, pono or mana.” Further, they say that the Taumore Trust (Waitakarau 1A1B2C and D1 Trust) was the whānau-mandated body responsible for the papakāinga and the collective management of the whenua. Decisions made about shares were made within a collective kaupapa. The omission regarding the agreement and this whānau context stopped the Court from understanding the nature of the transfer.

[52] As for the delay in bringing any action, this was explained by contending that the whānau often rely on trust, whakawhanaungatanga and good faith when dealing with one another. It was asserted that “tikanga does not punish those who trust each other”. It was further submitted that s 45 has no timeframe and that William Jnr’s delay is not a barrier to correcting an order made without full information.

[53] This reply from the applicants would be quite plausible if there were some corroborating evidence. However, there is none and no one alive, except William Jnr, knows about the deal that William Jnr says was made with Lesley. Furthermore, it is not acceptable that this arrangement, if it existed, was not disclosed to the Court.

[54] To allow a claim that the Court made an error by omission under these circumstances, solely because William Jnr did not achieve what he wanted pursuant to a deal that he has no corroborating evidence of, and which he did not disclose to the Court, would be to authorise an abuse of the Court's processes.²⁰ This is because he is arguing that I recognise an omission that was deliberately not disclosed to the Court, should I agree that a private deal with Lesley existed. Section 44 cannot be used in this way and tikanga cannot be used as a foil to obscure this reality. Such a result would not reflect "pono, tika and mana."

[55] I, therefore, reject all the arguments made by the applicants and find there was no error made on those grounds.

Te uiuinga tuarua

The second issue

[56] The second issue I need to address is whether it is necessary in the interests of justice to remedy any mistake or omission.

[57] The applicants state that the interests of justice and the kaupapa of the Act require that the order be corrected so that it aligns with the true circumstances of the transfer, the whakapapa obligations owed to the block and the collective whānau expectations that existed at the time. They submit that an order made without this full factual and tikanga context cannot stand as a just or accurate reflection of the parties' intentions.

²⁰ See *Proprietors of Maraeroa C v NZ Forest Products Ltd* (2007) 121 Waikato MB 258 (121 W 258), where it was noted (at [12]) that the Māori Land Court has "inherent powers subject to the rules of Court and to statute to regulate its procedure, to ensure fairness in its procedures and to prevent an abuse of its process."; see also *Seimer v Solicitor General* [2013] NZSC 68 which confirms all courts have inherent powers; also relevant is r 15.1(d) of the High Court Rules cited in *Taueki v Horowhenua Sailing Club - Horowhenua 11* (2015) 337 Aotea MB 68 (337 AT 68) as authority for the proposition that proceedings should not be brought for an improper motive or an attempt to obtain a collateral benefit; and finally see *Moerewa Māori Incorporation v Sanson - Part Maungakawakawa 20* (2024) 274 Taitokerau MB 292 (274 TTK 292), where (citing *Commissioner of Inland Revenue v Chesterfields Preschools Ltd* [2013] NZCA 53) the Court noted that abuse of process extends beyond definitions of frivolous or vexatious proceedings to capture "other instances of misuse of the court's processes".

[58] To accept the arguments for the applicants, I would be required to authorise an abuse of the Court's processes. I am not prepared to do that. Rather, I have found there was no error made by omission warranting the cancellation of the vesting order made in 2003. Therefore, it is not necessary in the interests of justice to make the s 44 order sought.

Kupu whakataunga

Decision

[59] The application is dismissed.

[60] I note there is an outstanding issue which may be at the heart of this whānau dispute for the broader Castle whānau. That is the fact that Charles Rhind's mother was a whāngai of Thomas Castle. I further note that in 1962, the Adoption Act 1955 s 19 and s 80 of the Māori Affairs Act 1953 were in force. These provisions provided that no Māori customary adoption had any legal force or effect with respect to any succession. Thus there may have been an error made in recognising Puataka Rhind as a child of Thomas, but that would have to be fully examined pursuant to another s 45 application filed by the whānau acting, as I recommend, with the advice of a lawyer.

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

I whakapuakina i te 2.00 pm i Te Whanganui-a-Tara, i te tuatahi o ngā rā o Haratua i te tau 2026.

Pronounced at 2.00 pm in Wellington on this 1st day of May 2026.

C L Fox

CHIEF JUDGE