I TE KOOTI WHENUA MĀORI O AOTEAROA
I TE ROHE O AOTEA
In the Māori Land Court of New Zealand
Aotea District

AP-20230000027615
CJ 2023/24

WEHENGA *Under*	Section 45, Te Ture Whenua Māori Act 1993
MŌ TE TAKE *In the matter of*	Tuaropaki E and Others
NĀ *By*	JOHN STACEY HAKARAIA AND DEBRA THELMA JANE HAKARAIA Ngā Kaitono *Applicants*

Kōtitanga: *Hearing*	11 June 2026, 2026 Chief Judge's MB 1050-1064 17 September 2026, 2026 Chief Judge's MB 1585-1593 (Heard at Wellington by zoom)
Kanohi kitea: *Appearances*	M Tukapua for applicants
Whakataunga: *Judgment date*	15 October 2026

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

Hei timatanga kōrero
Introduction

[1] John Stacey Hakaraia and Debra Thelma Jane Hakaraia filed this application pursuant to s 45 of Te Ture Whenua Māori Act 1993 (the Act) seeking an order under s 44 cancelling the order made at 72 Taupō MB 66 on 13 September 1999.

[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. They claim that John Stacey Hakaraia's shares were gifted back to his grandmother without his consent. They note John lost a considerable number of shares as a result. John wants those shares revested in him.

Kōrero whānui
Background

[3] The Registrar's Preliminary Report and Recommendation (the report) dated 26 March 2026 sets out the background to the 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 John Stacey Hakaraia and Debra Thelma Jane Hakaraia (the applicants), seeks to cancel the order made at 72 Taupō MB 66 on 13 September 1999. The order relates to the transfer of shares made by John Stacey Hakaraia, Stacey Papanui Tamahiki Hakaraia and Te Aroha Te Waaka Hakaraia in favour of Hinewai Jane Hakaraia. This application, however, is limited to the interests vested by John Stacey Hakaraia (John).
>
> [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. They claim that they are adversely affected by the order because John lost a large number of shares. Accordingly, John's shares were gifted back to Hinewai Jane Hakaraia without his consent.
>
> **He kōrero tuku iho**
> Background
>
> [3] On 13 September 1999, an order was made vesting the following Māori land interests in Hinewai Jane Hakaraia (Hinewai):

Land	Total shares of transferor	Name of transferor	Shares vested by transferor	Name of transferee
Tuaropaki E	***11.618648*** 11.618648 11.618648	***John Stacey Hakaraia*** Stacey Papanui Tamahiki Hakaraia Te Aroha Te Waaka Hakaraia	***10.618648*** 10.618648 10.618648	*Hinewai Jane Hakaraia*
Waihaha 3B2	***2.11917*** 2.11918 2.11918	***John Stacey Hakaraia*** Stacey Papanui Tamahiki Hakaraia Te Aroha Te Waaka Hakaraia	***1.11917*** 1.11918 1.11918	*Hinewai Jane Hakaraia*
Waihaha 4	***21.97*** 24.97 24.97	***John Stacey Hakaraia*** Stacey Papanui Tamahiki Hakaraia Te Aroha Te Waaka Hakaraia	***21.97*** 23.97 23.97	*Hinewai Jane Hakaraia*
Waipapa 9	***70.0304*** 70.0304 70.0304	***John Stacey Hakaraia*** Stacey Papanui Tamahiki Hakaraia Te Aroha Te Waaka Hakaraia	***69.0304*** 69.0304 69.0304	*Hinewai Jane Hakaraia*
Waihaha 7	***4.15778*** 4.15778 4.15778	***John Stacey Hakaraia*** Stacey Papanui Tamahiki Hakaraia Te Aroha Te Waka Hakaraia	***3.15778*** 3.15778 3.15778	*Hinewai Jane Hakaraia*

Ngā kōrero taunaki
Supporting or other information

[4] The applicants have provided copies of the following documents in support of their application:

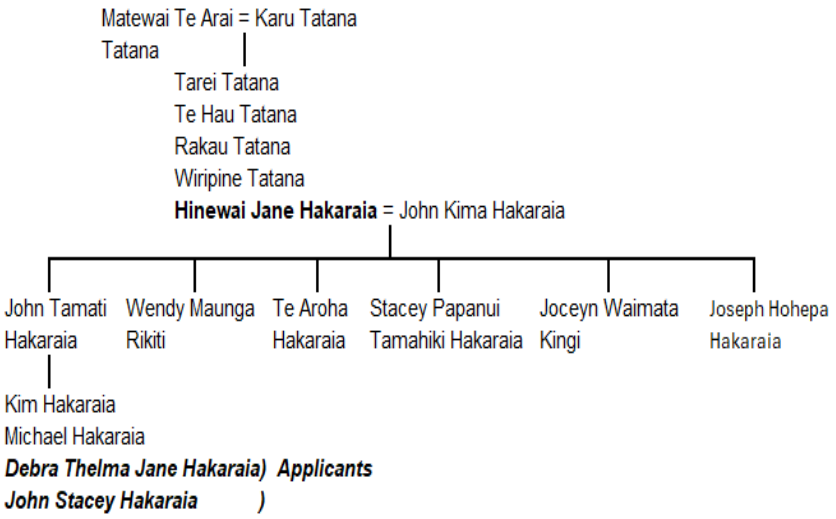
(a) Letter of the Registrar, dated 15 December 1999 distributing copy of the minute and vesting order made at 72 Taupō MB 66 on 13 September 1999;

(b) 72 Taupō MB 66 dated 13 September 1999, the order complained of, transferring John Stacey Hakaraia's interests to Hinewai Jane Hakarai; and

(c) 67 Taupō MB 265 dated 29 April 1996 – order transferring Hinewai Hakaraia's Māori land interests to John Stacey Hakaraia.

Te rangahau a te kooti
Court research

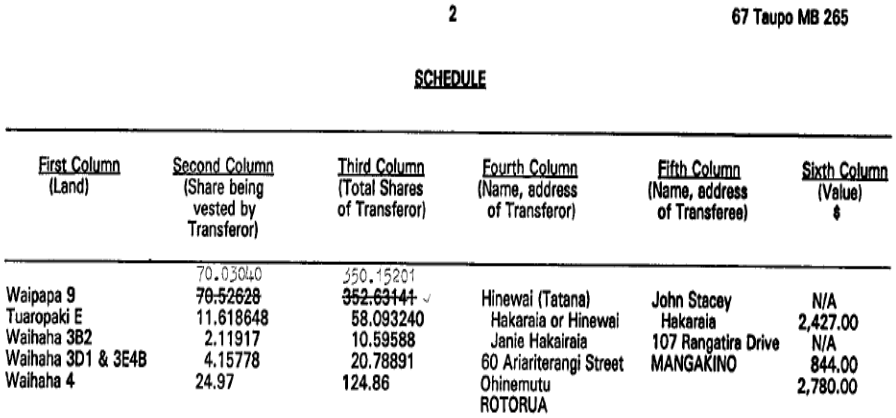
[5] Below is the whakapapa of the applicants:



[6] On 29 April 1996, at 67 Taupō MB 265, Hinewai transferred all her interests in the blocks to her children, by way of gift.

1	Wendy Maunga Rikiti
2	Te Aroha Te Waaka Hakaraia
3	Stacey Papanui Tamahiki Hakaraia
4	Jocelyn Waimata Kingi
5	**John Stacey Hakaraia**

[7] Although the minute records the transferees as Hinewai's children, John is Hinewai's grandson. John received the following:[1]



2 67 Taupo MB 265

SCHEDULE

First Column (Land)	Second Column (Share being vested by Transferor)	Third Column (Total Shares of Transferor)	Fourth Column (Name, address of Transferor)	Fifth Column (Name, address of Transferee)	Sixth Column (Value) $
	70.03040	350.15201			
Waipapa 9	~~70.52628~~	~~352.63141~~	Hinewai (Tatana) Hakaraia or Hinewai Janie Hakairaia 60 Ariariterangi Street Ohinemutu ROTORUA	John Stacey Hakaraia 107 Rangatira Drive MANGAKINO	N/A
Tuaropaki E	11.618648	58.093240			2,427.00
Waihaha 3B2	2.11917	10.59588			N/A
Waihaha 3D1 & 3E4B	4.15778	20.78891			844.00
Waihaha 4	24.97	124.86			2,780.00

[8] On 10 October 1997, Hinewai's children, except for Wendy Mauanga Rikiti, commenced an application to transfer their interests in the Māori lands to their mother, pursuant to s 164 of the Act. In support of their application, each submitted an agreement executed by themselves and Hinewai to vest in Hinewai their interests, except for one share in each block. Copy of the agreement between John and Hinewai dated 3 October 1997 is attached to this report as Annex "A".

[1] 67 Taupō MB 265 (67 TPO 265).

[9] Meantime, on 14 October 1997, an order was made vesting a total of three shares of Stacey Papanui Tamahiki Hakaraia's interests in Waihaha 4 to Te Aroha Emma Cairns, Harriet Hariana Cairns and Eveline Cairns in, reducing Stacey Papanui Tamahiki Hakaraia's shares to 21.97 shares.[2]

[10] On 10 December 1997,[3] the application was called, however, parties did not appear and the proceedings were adjourned.

[11] The application came before Judge Savage on 24 February 1998.[4] The minute records the reason why the children were transferring their interests to Hinewai. Accordingly, Hinewai's intention was to transfer only a share in each block, however, due to an error on the part of the court or the Registrar, all of Hinewai's interests were vested.

[12] Below is the transcript of the proceedings held on 24 February 1998:

> Present
>
> Stacey Hakaraia
> Piri Tahana, Assists
>
> Court: Your gifting has already gone through to Hinewai hasn't yet.
>
> S Hakaraia: I don't know Sir.
>
> Court: But it's the others that are suppose to be here.
>
> S Hakaraia: Jocelyn is here Sir.
>
> Jocelyn Kingi sworn: I received these interests from my Mum at Tpo 67/265 on 29.4.96. The intention was for me to only receive one share in each block, however, the Court or Registrar mistakenly vested all Mum's shares to me and my brothers and sisters. This application seeks to rectify the situation by my retaining one share in each block and the balance returning to Mum. I do not regard value of the interests have any importance given what I have mentioned. I ask for orders for my application. Also ask for adjournment to next Taupo Court for my nephew John Stacey Hakaraia and my brother Te Aroha Hakaraia applications.
>
> Court: Stacey, two of your brothers haven't turned up have they.
>
> S Hakaraia: One is a nephew Sir and one is a brother.
>
> Court: Has this all been discussed in the family. (Yes) They agree to it. (Yes) There's no rarurarу.
>
> S Hakaraia: No. What had happened was we saw the Māori Land Court and they had made a mistake, so to fix it, Mum ended up with no shares at all, she really wanted to give us one share each of all her land, so she ended up with nothing, Sir, when it came to Court.
>
> Court: Well notwithstanding that the other two haven't shown, Jocelyn has shown, yours has already been done. I'll make the orders, there's an order vesting. I'll dispense with the special government valuation and the value are as per the schedules.

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2 70 Taupō MB 18 (70 TPO 18).
3 70 Taupō MB 48 (70 TPO 48).
4 70 Taupō MB 96-97 (70 TPO 96-97).

[13] On 24 February 1998, an order was made vesting part of Jocelyn Waimata Kingi's interests in Hinewai Hakaraia.[5]

[14] Further proceedings held on 7 July 1999,[6] and 3 August 1999[7] were adjourned as there were no appearances by the donors.

[15] On 13 September 1999, Stacey Hakaraia and Jocelyn Hakaraia appeared. After hearing from Stacey Hakaraia, the court issued the vesting orders subject of this application. Below is the transcript of the proceedings:[8]

> Present
>
> Stacey Hakaraia, Donor
> Jocelyn Hakaraia, Appears
>
> Court: Now where are we up to here Mr Hakaraia.
>
> S Hakaraia: Mum's shares to give back to her and just hang on to one share.
>
> Court: So this is a return to your mother, isn't it. (Yes) And Te Aroha lives in Brisbane now. (Yes) She's agreed though. (Yes) The family has all agreed on this.
>
> S Hakaraia: Yes and my nephew John couldn't make it he's in Christchurch.
>
> Court: That's John Stacey. (Yes) So all of those shares are going back to your mother Hinewai. (Yes) Is anybody else here on this matter.
>
> S Hakaraia: My sister.
>
> Court: Do you agree with this. (Yes) I make Orders accordingly.

[16] The block known as Waihaha 3D1 and 3E4B, contained in the schedule of lands at paragraph [7], is now superseded. This block was partitioned on 7 January 1997. The order of partition records John Stacey Hakaraia as an owner with 4.157780 shares out of the 134.546040 total shares.[9]

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

[17] Hinewai Jane Hakaraia died on 2 August 2001 with a will. Succession to Hinewai was ordered on 1 November 2004 at 80 Taupō MB 162-168. It was determined that the persons to succeed were Stacey Parehuia Hakaraia and Matewai Glenis Kingi. Orders were also made constituting the Jane Hinewai Tatana Hakaraia Whānau Trust and the Stacey Parehuia Hakaraia Kaitiaki Trust.[10]

Te utunga nā te putanga o te ōta
Payments made because of the order(s)

[18] There are no payments made as a result of the order.

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5 70 Taupō MB 96-97 (70 TPO 96-97) Order.
6 72 Taupō MB 10 (72 TPO 10).
7 72 Taupō MB 32 (72 TPO 32).
8 72 Taupō MB 66 (72 TPO 66).
9 68 Taupō MB 132-133, 66 Taupō MB 73-75 (68 TPO 132-133 & 66 TPO 73-75).
10 80 Taupō MB 162-168 (80 TPO 162-268).

Ngā āhuatanga i rararu ai
Areas of difficulty

[19] The agreement executed by Stacey Papanui Tamahiki Hakaraia and Hinewai on 3 October 1997 notes that Stacey Papanui Tamahiki Hakaraia held 21.97 shares in Waihaha 4, and the shares to be vested were 20.00. Copy of the agreement is attached as Annex "B".

[20] At 72 Taupō MB 66 Stacey Papanui Tamahiki Hakaraia's shares in Waihaha 4 is recorded as 24.97 despite the reduction of his shareholdings to 21.97, as noted in paragraph [9]. On the other hand, John Stacey Hakaraia's shareholding is recorded as 21.97. These are incorrect. An administrative error may have occurred in the drafting of the order. Therefore, there is a need to amend the order at 72 Taupō MB 66 to reflect their correct shareholdings.

Āe rānei, he take o tana haere ki tētahi kootitanga
Consideration of whether matter needs to go to hearing

[21] Based on evidence provided and court records, the following are established:

(a) John Stacey Hakaraia signed an agreement to transfer his shares to Hinewai Jane Hakaraia on 3 October 1997.

(b) John Stacey Hakaraia had been notified throughout the course of the proceedings. Notices of hearing and copies of minutes were sent to his address at Mangakino and/or Christchurch:

i. 6 September 1999 – Notice of hearing for 13 September 1999 (Christchurch address)
ii. 16 August 1999 – Notice of hearing for 13 September 1999 (Mangakino address)
iii. 19 July 1999 – Notice of hearing for 3 August 1999
iv. 21 June 1999 – Notice of hearing for 7 July 1999
v. 21 May 1999 – Distribution of the minute made at 70 Taupō MB 96
vi. 15 January 1998 – Notice of hearing for 24 February 1998

[22] There is no error made in the order at 72 Taupō MB 66 on 13 September 1999, and a hearing is not required. However, in order to give the parties an opportunity to be heard this matter will be set for hearing.

Te tūtohunga hei whai
Recommendation of course of action to be taken

[23] If the Deputy Chief Judge is of a mind to exercise his jurisdiction, then it would be my recommendation that:

(a) A copy of the Preliminary Report and Recommendation (the Report) be sent to the parties, for whom we have contact details for, giving them an opportunity to comment or respond in writing by **23 April 2026.**

(b) The application be dismissed. However, the matter be set down for hearing at the Māori Land Court via zoom at the Chief Judge court sitting for June 2026, to

enable parties to be heard. The date and time of the hearing to be advised in due course.

(c) Considering the error noted at paragraph [20] above, an order be made pursuant to s 44, amending the order at 72 Taupō MB 66 on 13 September 1999 in respect to Waihaha 4, as follows:

i. John Stacey Hakaraia's share of 21.97 in the second column of the schedule be deleted and replaced with 24.97;

ii. John Stacey Hakaraia's share of 21.97 in the fourth column of the schedule be deleted and replaced with 23.97;

iii. Stacey Papanui Tamahiki Hakaraia's share of 24.97 in the second column of the schedule be deleted and replaced with 21.97; and

iv. Stacey Papanui Tamahiki Hakaraia's of 23.97 in the fourth column of the schedule be deleted and replaced with 20.97.

(d) A further order be made pursuant to s 47(4) amending all consequential orders including the following:

i. 80 Taupō MB 162-168 dated 1 November 2004;

Ko te hātepe ture o te tono nei
Procedural history

[4] The application was first heard on 11 June 2026. The Court had before it an affidavit from John Stacey Hakaraia dated 5 May 2026. He disagreed with the Preliminary Report of the Registrar. His full affidavit and legal submissions are discussed below.

[5] Matewai Kingi gave evidence as the former executor and trustee of the Jane Hinewai Tatana Hakaraia Whānau Trust established for the benefit of Michael Mikaere Hakaraia and Hinewai's grandchildren and their descendants. She claimed the initial transfer from Hinewai to the applicant was a mistake. Stacey Papanui Tamahiki Hakaraia also gave evidence. I adjourned the proceedings and directed the case manager to prepare a supplementary report in light of the evidence given by her relating to the transfer of shares made by Hinewai to her children.

[6] On 6 August 2026, a supplementary report was completed and distributed to the parties. Below is the full reproduction of the supplementary report:

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

Supplementary 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 was filed by John Stacey Hakaraia and Debra Hakaraia seeking to cancel the order made at 72 Taupō MB 66 on 13 September 1999 relating to the transfer of shares by John Stacey Hakaraia (John) to Hinewai Jane Hakaraia (Hinewai).

[2] The application was heard by Chief Judge C L Fox on 11 June 2026. After hearing from the parties, Her Honour adjourned the proceedings to allow for a supplementary report to be prepared considering the evidence given by Stacey Papanui Tamahiki Hakaraia regarding the transfer of shares from Hinewai to her children, if such transfer did in fact occur.[11]

[3] The following is the evidence given by Stacey Papanui Tamahiki:[12]

> **Stacey Hakaraia:** Kia ora tātou, my name is Stacey Papanui Tamahiki Hakaraia. I was in the Court that day, you will see my name is there. Now I think everyone has got it wrong. What happened with Mum's shares, that we are only supposed to 0.2 of a share, but the Māori Land Court divided all her shares up equally and Mum missed out on her grants from Tuaropaki, so we were only supposed to have one voting share, as my nephew said. He was in the land already, he had a voting, we all had one share, one voting share, so because of Mum's shares all went to us, we had to give them back, so we all agreed to give them back, except my sister in Australia. When we went to the Court to give them back, you will see in the Taupō Court that she wasn't there to give them back, so I think there's been a bit of a misunderstanding.
>
> What Mum did was, was asked for a voting share, so we all can get up in the meetings and vote, and my nephew got the same as me. We all got one voting share, but the Māori Land Court made a mistake and gave us I think it was, gave us all Mum's shares, she split it up, so we had to give them back. So we gave them back in the Taupō Court, because she was still alive then and she wasn't getting her grants, her money, and it wasn't ours, and so that's what happened. That's how it got to this point, and I was the one that put it in and everyone, but at the time my nephew was down the South Island and we all agreed to give them back, except my sister couldn't give hers back because she was in Brisbane and I think she has still got them.
>
> So that's how it got to this, but we all still got a voting share and he got a voting share, same as us. That's all we got. But then when Mum passed away, all the shares went to the grandchildren, they left us out, the siblings. There's only two of us left, so all the shares, they're in there now, there's actually an application in the Court now with Mum's shares, and Debra will know, they put it in, and then there's also another application with my Dad's shares, they went into Hinewai's shares, so we're trying to get them out, because they belonged to our Dad, not Hinewai. So that's where we are today. So I just thought I'd put everyone in it, because I was in the Court that day and we all agreed to give Mum's shares back at that time.

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11 2026 Chief Judge's MB 1050-1064 (2026 CJ 1050-1064) at 1056-1057.
12 Ibid at 1055-1056.

Te rangahau a te kooti
Court research

[4] On 21 February 1996, Hinewai Hakaraia executed an agreement, pursuant to sec 164 of the 1993 Act, to transfer portions of her interests to her children, namely, Wendy Maunga Rikiti, Stacey Papanui Tamahiki Hakaraia, Jocelyn Waimata Kingi, Te Aroha Te Waaka Hakaraia, and her grandson, John Stacey Hakaraia. For purposes of this report, the transferees shall be referred to as "children".

[5] Below is the schedule of lands to be vested:

SCHEDULE OF LAND INTERESTS TO BE VESTED

BLOCK	TOTAL SHARES IN BLOCK	SHARE TO BE VESTED	GIFT OR CONSIDER-ATION
Waihaha 3B N°2	10·59588	5·10790	(GIFTED) TO BE DIVIDED BETWEEN FIVE CHILDREN.
Waihaha 3D 1+3E 4B.	20·78891	5·74450	
Waihaha 4	124·86	11·60	
Tuorapaki E	58·093240	12·62625	
Waipapa 9	284·81890	12·39700	

[6] On 29 April 1996 at 67 Taupō MB 265, Judge Savage heard the application. Orders were made vesting Hinewai's interests, as follows:

(a) Wendy Maunga Rikiti

SCHEDULE

First Column (Land)	Second Column (Share being vested by Transferor)	Third Column (Total Shares of Transferor)	Fourth Column (Name, address of Transferor)	Fifth Column (Name, address of Transferee)	Sixth Column (Value) $
	70.05041	350.15201			
Waipapa 9	~~70.52629~~	~~352.63141~~ ✓	Hinewai (Tatana)	Wendy Maunga	N/A
Tuaropaki E	11.618648	58.093240	Hakaraia or Hinewai	Rikiti	2,427.00
Waihaha 3B2	2.11918	10.59588	Janie Hakaraia	13 Guhungal Drive	N/A
Waihaha 3D1 & 3E4B	4.15779	20.78891	60 Ariariterangi Street	Slacks Cr	844.00
Waihaha 4	24.98	124.86	Ohinemutu	Brisbane	2,780.00
			ROTORUA	AUSTRALIA	

(b) Stacey Papanui Tamahiki Hakaraia

SCHEDULE

First Column (Land)	Second Column (Share being vested by Transferor)	Third Column (Total Shares of Transferor)	Fourth Column (Name, address of Transferor)	Fifth Column (Name, address of Transferee)	Sixth Column (Value) $
	70.05040	350.15201			
Waipapa 9	~~70.52629~~	~~352.63141~~ ✓	Hinewai (Tatana)	Stacey Papanui	N/A
Tuaropaki E	11.618648	58.093240	Hakaraia or Hinewai	Tamahiki Hakaraia	2,427.00
Waihaha 3B2	2.11918	10.59588	Janie Hakaraia	91 Aikten Street	N/A
Waihaha 3D1 & 3E4B	4.15778	20.78891	60 Ariariterangi Street	ASHBURTON	844.00
Waihaha 4	24.97	124.86	Ohinemutu		2,780.00
			ROTORUA		

(c) Te Aroha Te Waaka Hakaraia

SCHEDULE

First Column (Land)	Second Column (Share being vested by Transferor)	Third Column (Total Shares of Transferor)	Fourth Column (Name, address of Transferor)	Fifth Column (Name, address of Transferee)	Sixth Column (Value) $
	70.03040	350.15201			
Waipapa 9	~~70.52628~~	~~352.63141~~	Hinewai (Tatana)	Te Aroha Te Waaka	N/A
Tuaropaki E	11.618648	58.093240	Hakaraia or Hinewai	Hakaraia	2,427.00
Waihaha 3B2	2.11918	10.59588	Janie Hakairaia	8 Wing Place	N/A
Waihaha 3D1 & 3E4B	4.15778	20.78891	60 Ariariterangi Street	ROTORUA	844.00
Waihaha 4	24.97	124.86	Ohinemutu ROTORUA		2,780.00

(d) Jocelyn Waimata Kingi

SCHEDULE

First Column (Land)	Second Column (Share being vested by Transferor)	Third Column (Total Shares of Transferor)	Fourth Column (Name, address of Transferor)	Fifth Column (Name, address of Transferee)	Sixth Column (Value) $
	70.03040	350.15201			
Waipapa 9	~~70.52628~~	~~352.63141~~	Hinewai (Tatana)	Jocelyn Waimata	N/A
Tuaropaki E	11.618648	58.093240	Hakaraia or Hinewai	Kingi	2,427.00
Waihaha 3B2	2.11917	10.59588	Janie Hakairaia	R D	N/A
Waihaha 3D1 & 3E4B	4.15778	20.78891	60 Ariariterangi Street	TIHOE	844.00
Waihaha 4	24.97	124.86	Ohinemutu ROTORUA		2,780.00

(e) John Stacey Hakaraia

SCHEDULE

First Column (Land)	Second Column (Share being vested by Transferor)	Third Column (Total Shares of Transferor)	Fourth Column (Name, address of Transferor)	Fifth Column (Name, address of Transferee)	Sixth Column (Value) $
	70.03040	350.15201			
Waipapa 9	~~70.52628~~	~~352.63141~~	Hinewai (Tatana)	John Stacey	N/A
Tuaropaki E	11.618648	58.093240	Hakaraia or Hinewai	Hakaraia	2,427.00
Waihaha 3B2	2.11917	10.59588	Janie Hakairaia	107 Rangatira Drive	N/A
Waihaha 3D1 & 3E4B	4.15778	20.78891	60 Ariariterangi Street	MANGAKINO	844.00
Waihaha 4	24.97	124.86	Ohinemutu ROTORUA		2,780.00

[7] The above orders appear to have been made in error. The schedules record that Hinewai's interests were divided equally among the five children and were vested accordingly. This was not in accordance with the application filed in February 1996. Hinewai intended to transfer only a portion of her interests, instead, orders were made transferring all of Hinewai's interests to the children.

[8] On 24 October 1997 at 247 Rotorua MB 116, the orders were amended to reflect the correct shareholding of Hinewai in Waipapa 9 to 350.15201 shares.

[9] On 10 October 1997, the children, except for Wendy Mauanga Rikiti, filed an application under sec 164 seeking to return Hinewai's interests, while retaining one share in each block.

[10] On 24 February 1998 at 70 Taupō 96-97, Judge Savage heard the application. Relevant portions of the minute read, as follows:

> Jocelyn Kingi sworn: I received these interests from my Mum at Tpo 67/265 on 29.4.96. The intention was for me to only receive one share in each block, however,

> the Court or Registrar mistakenly vested all Mum's shares to me and my brothers and sisters. This application seeks to rectify the situation by my retaining one share in each block and the balance returning to Mum. I do not regard value of the interests have any importance given what I have mentioned. I ask for orders for my application. Also ask for adjournment to next Taupo Court for my nephew John Stacey Hakaraia and my brother Te Aroha Hakaraia applications.
>
> Court: Stacey, two of your brothers haven't turned up have they.
>
> S Hakaraia: One is a nephew Sir and one is a brother.
>
> Court: Has this all been discussed in the family. (Yes) They agree to it. (Yes) There's no rarurarau.
>
> S Hakaraia: No. What had happened was we saw the Māori Land Court and they had made a mistake, so to fix it, Mum ended up with no shares at all, she really wanted to give us one share each of all her land, so she ended up with nothing, Sir, when it came to Court.
>
> Court: Well notwithstanding that the other two haven't shown, Jocelyn has shown, yours has already been done. I'll make the orders, there's an order vesting. I'll dispense with the special government valuation and the value are as per the schedules.

[11] On 24 February 1998, the Court ordered that the interests held by Jocelyn be transferred to Hinewai. On 19 February 1999 at 71 Taupō MB 38, the order was amended to reflect the number of shares revested in Waipapa 9 to read 69.03040.

[12] On 13 September 1999 at 72 Taupō MB 66, the matter again came before Judge Savage, and an order was made revesting the interests held by Stacey Papanui, Te Aroha and John Stacey in Hinewai.

[13] A copy of the vesting order at 72 Taupō MB 66 was sent to John Stacey Hakaraia on 15 December 1999. The letter distributing the order was submitted by the applicants in support of this current application.

[14] Waihaha No. 3D No. 1 and 3E No. 4B is a superseded block. On 7 January 1997, Waihaha No. 3D No. 1 and 3E No. 4B was partitioned. As part of the partition, Wendy Maunga Rikiti, Stacey Papanui Tamahiki Hakaraia, Jocelyn Waimata Kingi, Te Aroha Te Waaka Hakaraia, and John Stacey Hakaraia were declared as owners of Waipapa 7 with a shareholding of 4.157780 shares each.[13]

[15] Hinewai died on 2 August 2001 with a will, leaving the remainder of her estate to a whānau trust to be established for the benefit of her son Michael Mikaere Hakaraia, her grandchildren, and their subsequent descendants. Clauses 5 and 8 of Hinewai's will of 20 (*month unreadable*) 2001, read:

> 5. **I GIVE** all the rest of my estate to my Trustees on trust:
>
> …
>
> (b) to pay or transfer the balance (my "Remaining Estate") to my granddaughter **MATEWAI GLENIS KINGI** as trustee of a Whanau Trust which I direct her to establish for the benefit of my son **Michael Mikaere**

[13] 68 Taupō MB 132-133, 66 Taupō MB 73-75 (68 TPO 132-133 & 66 TPO 73-75).

> **Hakaraia** and my grandchildren (being the children of my natural children) and all subsequent descendants of them.
> …
>
> 8. **I ACKNOWLEDGE** that I have been made aware of the provisions of the Family Protection Act 1955 and my obligations to my children in respect of this act and I have made a decision to exclude my remaining children on this basis that I have provided for them during my lifetime.

Āe rānei, he take o tana haere ki tētahi kootitanga
Consideration of whether matter needs to go to full hearing

[16] Based on the information above, the following were established:

(a) On 29 April 1996 at 67 Taupo 265, orders were made transferring the Māori land interests of Hinewai to her four children, and grandson John Stacey Hakaraia.

(b) The orders of 29 April 1996 were erroneous as the entire interests of Hinewai were vested in her children, contrary to the agreement executed on 21 February 1996.

(c) The children recognised the error made by the court, and an application was made to return those interests to Hinewai, except for one share in every block. On 13 September 1999 at 72 Taupō 1966, the Court ordered the return of the interests held by John Stacey Hakaraia to Hinewai.

[17] As outlined in the Preliminary Report dated 26 March 2026, there appears to be no error in the order made on 13 September 1999 transferring John's interests to her grandmother Hinewai. The order was made to correct and to return the shares erroneously received by Hinewai's children, and grandson John Stacey Hakaraia.

Te tūtohunga hei whai
Recommendation of course of action to be taken

[18] It is recommended that:

(a) A copy of this report be sent to parties giving them until 27 August 2026 to file their written comment or response to the report.

(b) The application be set for hearing on the Chief Judge's sitting for 17 September 2026 at 2:45 pm, via zoom.

(c) The application be dismissed.

Te Nohongā a te Kooti

[7] On 17 September 2026, the Court again heard from parties.

Ngā Kōrero tautoko a te Kaitono

[8] In his first affidavit dated 5 May 2026, the applicant claimed that his grandmother Hinewai (Tatana) or Jane Hakaraia transferred her shares to him "… to ensure my father's line was not excluded from receiving her Māori land interests." He contended that he signed the family agreement dated 3 October 1997 in order for his grandmother "… to have speaking and voting rights in relation to the Māori land blocks." However, he claims he only agreed to vest 1 share in each of the blocks Waihaha 4 and 3B2, Tuaropaki E, and Waipapa 9 back to his grandmother.

[9] When he signed, he only signed the first page before a Justice of the Peace. He did not write Waihaha 3D1 or Waihaha 3E4B and what is on the agreement is not his handwriting. The pen used was different. He queried the pen colours and the 'varying handwriting.' He stated he did not sign the last page. He claimed the signature on that page is not his. Furthermore, there are no signatures or initialling of the schedule. He claimed he did not see the schedule presented to the Māori Land Court in 1999.

[10] He claimed that before he left the North Island in 1998, he told his grandmother and two of her children that he changed his mind and did not want to give any shares back. As he did not hear anything further, he thought the matter was finished.

[11] He also claimed that the notices from the Court sent to his old address in Mangakino did not reach him. Nor did the notice sent to Christchurch. He received no notice of the hearing in 1999 from his aunt and uncle. Had he known he would have opposed the application. It was not until 2022 that he found out that all but 1 of his shares in each block had been transferred to his grandmother. He has ended up with no shares in Waihaha 4. He then filed this application.

[12] On 26 August 2026, John Hakaraia's second affidavit dated 24 August 2026 was filed. In it, he disagreed with the Registrar's Supplementary Report noting that the records show his grandmother was in Court on the day the shares were vested in him and his aunts and uncles. She agreed to the transfer of her shares, not just a portion of those.

[13] He queried why Wendy Rikiti was able to keep all her shares and why his uncle Stacey transferred some of the Waihaha 4 shares to Stacey's cousins, rather than return them to his grandmother.

[14] The applicant's lawyer, Ms Tukapua, submitted that the order made in September 1999 were made in error and in breach of natural justice. Counsel noted that the last two notices of hearings sent by the Court threatened dismissal of the application. Instead of doing so, the Court made the orders in September 1999 revesting the shares in the applicant's grandmother.

[15] She relied on the requirements of ss 164 and 154 of the Act, as these provisions were in 1999. These provisions were amended in 2002. In 1999, s 164(6) gave the Court a discretion to decline to make the order if the alienor was not present or there was no evidence from that person agreeing to an order if the value of the shares exceeded $2000. In this case, the Court adjourned twice, *inter-alia,* because John was not present. However, it failed to do so in September 1999. Also relevant was whether John, the alienor, understood the value of the shares as per s 154(a)(iv). There is no evidence of this on file.

[16] Debra Hakaraia, the co-applicant, supported John. She is John's sister and a current trustee of the Jane Hinewai Tatana Hakaraia Whānau Trust. She claimed Hinewai wanted the applicant to have their deceased father's shares.

[17] In September 2026, at 2026 CJMB 1588, I reserved my decision.

Ngā Ture
The Law

[18] 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 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.

[19] In *Ashwell – Rawinia or Lavinia Ashwell (nee Russell)*, the principles to be applied in determining such applications made pursuant to s 45 of the Act were listed as follows: [14]

> - 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 applicants (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 s 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.

[20] Section 44 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.

[21] 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

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

into account the nature and gravity of the matter at issue.[15] This means that the applicant must establish on the balance of probabilities that there was a mistake or omission.

[22] The Court of Appeal has confirmed that the power under s 44(1) falls into two parts:[16]

> 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.

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 or cancelling the order?

Was an error made?

[24] Having weighed the evidence and the submissions of counsel, I consider that the Court was in error when it made the order recorded at 72 Taupō MB 66 on 13 September 1999. This was because the Court did not require direct evidence from the applicant, John Stacey Hakaraia, either in person or by declaration, recording that he understood the value of the shares to be transferred as required by ss 164 and 154 of the Act in 1999. Rather, the only evidence before the Court were the representations made by Stacey Hakaraia and the disputed agreement.

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15 *Tau v Nga Whanau O Morven & Glenavy – Waihao 903 Section IX Block* [2010] Māori Appellate Court MB 167 (2010 APPEAL 167).
16 *Inia v Julian* [2020] NZCA 423 at [10].

[25] I also consider that the use of s 164 cannot be justified to correct the earlier error made by the Court when it made the order in 1996 recorded at 67 Taupo MB 265. This was the order resulting in the transfer of shares from Hinewai to her children and John the applicant. The way to correct such an order should have been to file an application to the Chief Judge under s 45. This case demonstrates what can go wrong if the jurisdiction to correct the record is not exercised properly.

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

[26] Taking into account the Preamble, ss 2 and 17, I consider that it is in the interests of justice to correct the error made by the Court as John lost his shares without his fully informed consent.

Kupu whakataunga me ngā ōta
Decision and Orders

[27] The order made at 72 Taupō MB 66 on 13 September 1999 as it relates to John Stacey Hakaraia is cancelled pursuant to s 44 of Te Ture Whenua Māori Act 1993.

[28] There is a further order made under s 47(4) of the Act authorising the making of all consequential orders to give effect to the order made at paragraph 27 of this decision.

[29] The case manager is directed to distribute a copy of this decision to all parties.

I whakapuakina i te 2.00 pm i Te Whanganui-a-Tara, tekau mā rima o ngā rā o Ōketopa i te tau 2026.
Pronounced at 2.00 pm in Wellington on this 15th day of October 2026.

C L Fox
CHIEF JUDGE