

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

AP-20230000022755
A20190007809
CJ 2019/27

WĀHANGA <i>Under</i>	Section 45, Te Ture Whenua Māori Act 1993
MŌ TE TAKE <i>In the matter of</i>	Succession to Mere Ngamai
NA <i>By</i>	JOHN (JACK) HARRISON Te kaitono <i>Applicant</i>

Nohoanga: <i>Hearing</i>	19 June 2024, 2024 Chief Judge’s MB 851-861 (Heard at Rotorua via Zoom)
Whakataunga: <i>Judgment date</i>	4 September 2025

TE WHAKATAUNGA Ā KAIWHAKAWĀ MATUA TUARUA C T COXHEAD
Judgment of Deputy Chief Judge C T Coxhead

Hei tīmatanga kōrero

Introduction

[1] This application, filed by John (Jack) Harrison, seeks to amend a succession order made at 24 Wellington MB 283 dated 14 July 1925 relating to Mary Ngamai (Mere Ngamai).

[2] The applicant claims that the order is incorrect due to a mistake or error made by the Court and in the presentation of the facts of the case to the Court.

[3] The claim is that there has been a mix up of Mere Ngamai the mother and Mere Ngamai the daughter. While Mere Ngamai's (the mother) interests in lands went to her three children Mere Ngamai, John Harrison and James Harrison equally, in 1925 when the succession to a Mere Ngamai's Wellington Tenths interest was done, all those interests went to the children of Mere Ngamai the daughter. The applicant claims that it was actually a succession to the interests of Mere Ngamai the mother. Therefore, the succession order wrongly left out the two sons John Harrison and James Harrison (who are siblings to Mere Ngamai the daughter).

Kōrero whānui

Background

[4] The Registrar's Report and Recommendation (the Report) dated 27 May 2024 setting out the background is reproduced in full below.

APPLICATION UNDER SECTION 45 OF TE TURE WHENUA MĀORI ACT 1993 PRELIMINARY REPORT AND RECOMMENDATION

Introduction

1. This application has been filed by John (Jack) Harrison (the applicant) and seeks to amend a vesting order made at 24 Wellington MB 283 dated 14 July 1925 relating to succession to Mary Ngamai (Mere Ngamai).
2. The applicant claims that the mistake error or omission is the shares in North Island Tenths belongs to his paternal great great grandmother – Mere Ngamai. She is shown on the original grantees list. Succession in 1925 was completed for his great great grandmother's daughter who has a similar name. He refers to the whakapapa attached to this application.
3. The applicant claims that he has been adversely affected by the order because his great great grandmother's other children – John Harrison and James Harrison also known as Tana Harrison, and their descendants have all missed out on having an interest/share in North Island Tenths.

Concise history of Order sought to be amended/cancelled

4. The matter was heard by the Court at 24 Wellington MB 283 dated 14 July 1925. The Court minute and order have been reproduced below:

24 Wellington - 283.

283

Wellington 14-7-1925

171. North Island Tenth 206 share
 Queen to Mary Ngamai (Mendy)
 who died 2-12-1924
 Mary Rachel Stewart (sworn) said
 no will. Had 10 children. 3 died
 order to the following:
 Mary Rachel Stewart f a
 Amelia Ekdahl f a
 John Harrison Robson M a
 James Charlton " M a
 Elizabeth " f a
 Thomas " M a
 Agnes Maud " f a
 in equal shares

W.N.B. 24/283 (N.L.C.-18.)

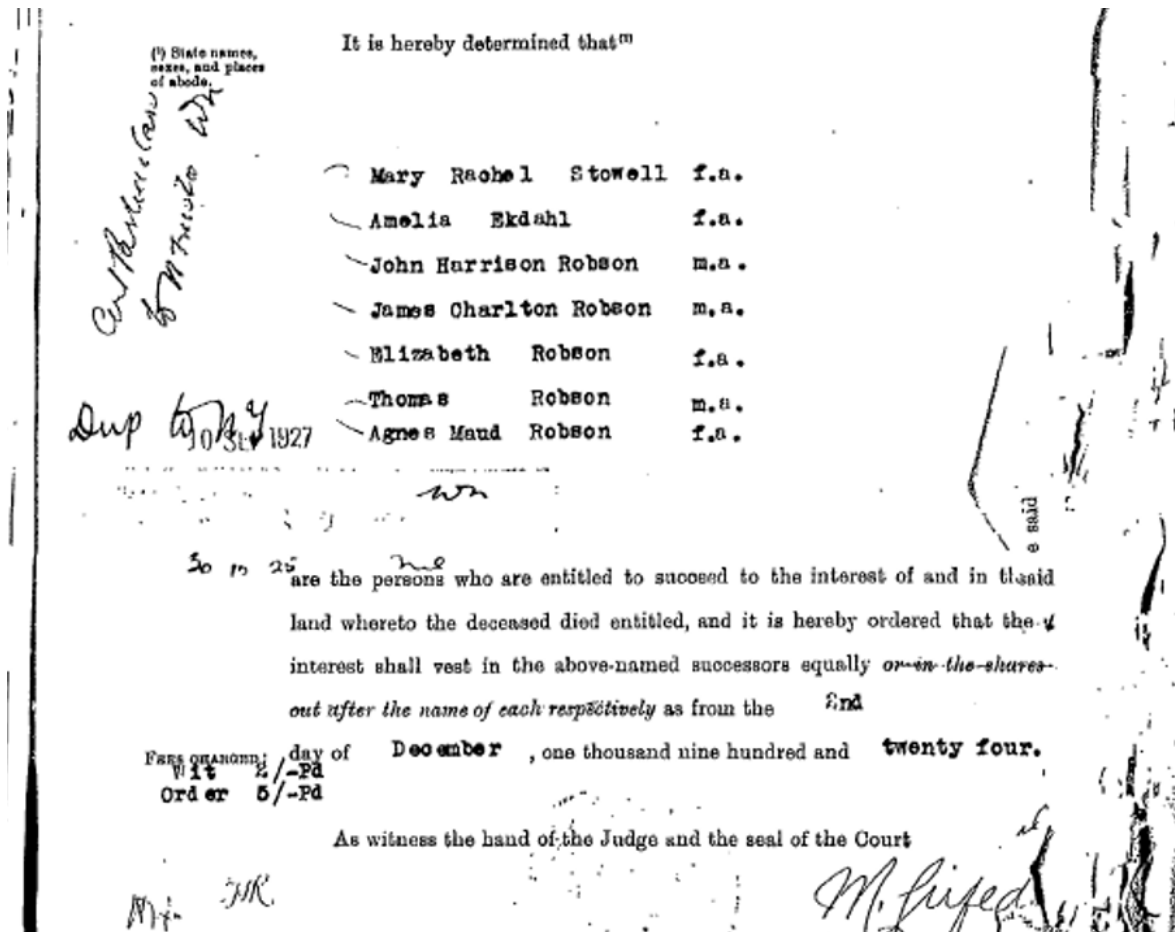
SUCCESSION ORDER.
 (Rule 51.)
 The Native Land Act, 1909.

IN THE NATIVE LAND COURT, } Ikarua District
 NEW ZEALAND.

In the matter of the land known as North Island Tenth
 (Wellington Tenth)

and of the interest of Mere Ngamai or Mere Ngamai
 deceased, therein.

At a sitting of the Court held at Wellington
 on the 14th day of July, 1925
 before Michael Gilfedder, Esquire, Judge,
 and , Assessor:



5. The Court made orders relating to Mere Ngamai in North Island Tenth (Wellington Tenth) equally in:

Successors/Beneficiaries

	Name	Sex
1	Mary Rachel Stowell	fa
2	Amelia Ekdahl	fa
3	John Harrison Robson	ma
4	James Charlton Robson	ma
5	Elizabeth Robson	fa
6	Thomas Robson	ma
7	Agnes Maud Robson	fa

Identification of evidence that may be of assistance in remedying the mistake or omission

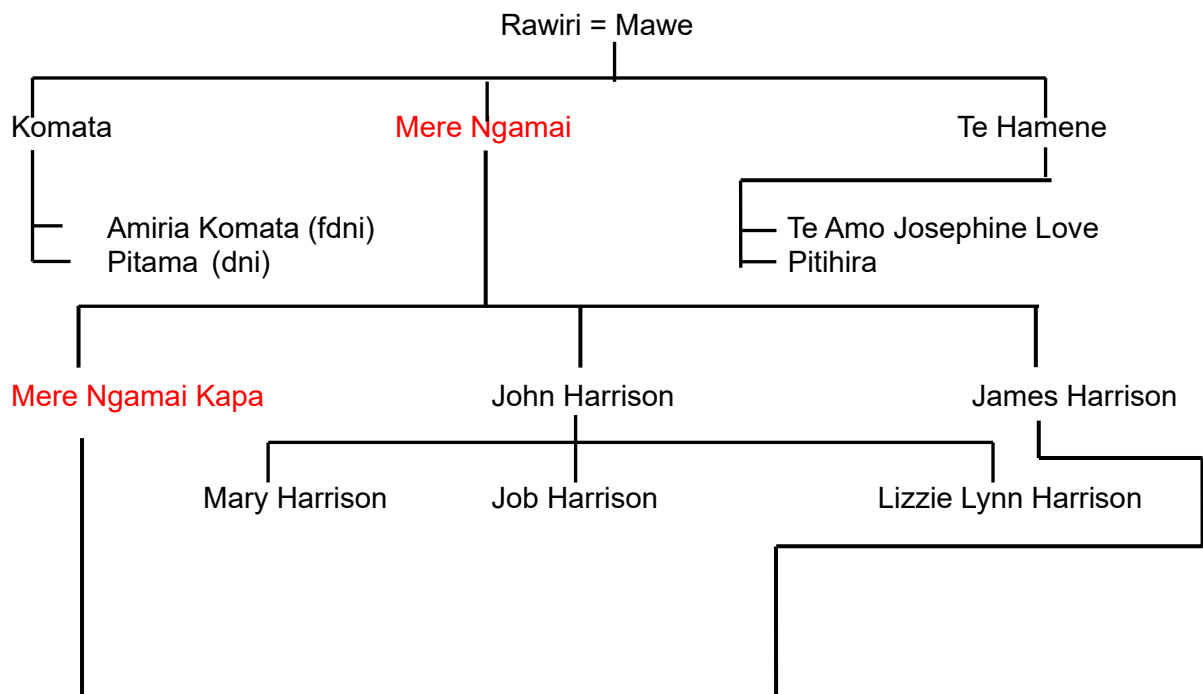
6. The applicant has provided the following information in support of his application:
 - a) The Court Order and Minute complained of;
 - b) A historical list of beneficiaries for North Island Tenths confirming Mere Ngamai as list entry 206 as an original owner;
 - c) A historical list of beneficiaries for North Island Tenths confirming Mere Ngamai or Mere Ngamai (Decd) from list number 206 to new list entries through the reference S. Order dated 14.7.25:

1286	Mary Rachel Stowell
1287	Amelia Ekdahl
1288	John Harrison Robson
1289	James Charlton Robson
1290	Elizabeth Robson
1291	Thomas Robson
1292	Agnes Maud Robson
 - d) Whakapapa Chart
 - e) Historical Māori Land Court minutes and orders
7. Ngatirahi Nos 6 & 14 historical succession order schedule detailing succession to Miri Tapaki or Miri Ruakere. Court minutes 9 Taranaki 368-369 & 372-373 dated 25 & 26 May 1905. This minute provides further whakapapa relevant for this application:
8. The value of the interest vested at the order complained of was 0.20¢.

Court Research

9. A whakapapa has been compiled from information supplied by the applicant and historical Court minutes:

Taken from 1A Taranaki MB 94-95 dated 12 April 1899, Amiria Komata (Ruakere), date of death, 01 May 1898. Mere Ngamai Kapa giving evidence.



Mary Rachel Robson (Stowell)
 John Harrison Robson
 William Robson
 Amelia Robson (Ek Dahl)
 James Charlton Robson
 Elizabeth Robson
 Agnes Maud Robson
 Archibald Carlyle Robson
 Thomas Robson

Kaaro Geary
 John Harrison
 Ellerslie Wallace Harrison
 Vernon Douglas Harrison

10. Mere Ngamai is recorded as an original owner of North Island Tenth as at 12 March 1873 with 190 shares.
11. Pitana Komata or Tipao and Miri Komata or Tapaki are also listed as original owners in North Island Tenth with 191 and 190 shares respectively. The whakapapa suggests that these 2 were the children of Komata who was a sibling to Mere Ngamai.
12. Pitihira Tapaki or Hoani Taramana is recorded as an original owner in North Island Tenth with 190 shares. The whakapapa suggests that Pitihira was a child of Te Hamene who was a sibling to Mere Ngamai.
13. Whakapapa and evidence recorded at 1A Taranaki MB 94-95 dated 12 April 1899 in respect to the succession of Amiria Komata (Ruakere) also known as Miri Ruakere informed the Court that Amiria Komata was deceased leaving no children. Amiria Komata has 1 sibling, Pitana, who was also deceased leaving no children. They were children of Komata who was a sibling of Mere Ngamai and Te Hamene. The whakapapa at paragraph 9 is consistent with the whakapapa at 1A Taranaki MB 94-95.

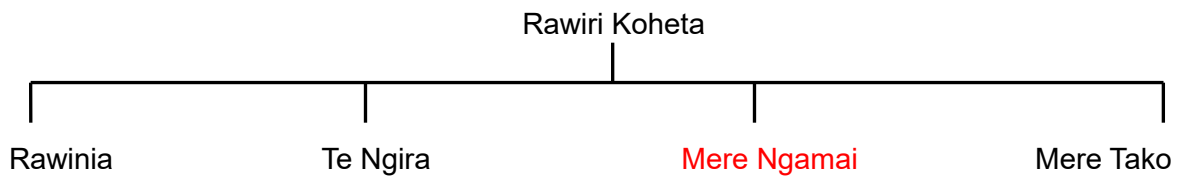
Orders were made vesting the interests of Amiria Komata (Ruakere) in the blocks Mangorei or Native Reserve "N" and Puketotara Sec 7 in:

Te Amo Josephine Love	1/4	}	Children of Te Hamene
Pitihira	1/4		
Mere Ngamai Kapa	1/6	}	Children of Mere Ngamai
James Harrison	1/6		
Mary Harrison	1/18	}	Mokopuna of Mere Ngamai
Job Harrison	1/18		
Lizzie Lynn	1/18		

14. The Court record has determined successors to Amiria Komata (Ruakere) in 1899 as recorded at paragraph 13. The original ownership schedule also appears to align with the whakapapa where the children of Komata and a child of Te Hamene are named alongside Mere Ngamai, possibly their aunty, as owners in North Islands Tenth as at 12 March 1873.
15. The shares of Agnes Maude Robson, Amelia Ek Dahl, Elizabeth Robson, James Charlton Robson, John Harrison Robson, Mary Raechel Stowell, and Thomas Robson being all those named as beneficiaries to the estate of Mere Ngamai at paragraph 6 were acquired by the Māori Trustee (Conversion Fund) pursuant to Section 21 of the 1955 Act at 41 Wellington MB 302 dated 21 January 1959.
16. On 10 August 1989 at reference TW11657, the Māori Trustee, revested uneconomic shares held for North Island Tenth where those named at paragraphs 6 and 9 received shares in the said block:

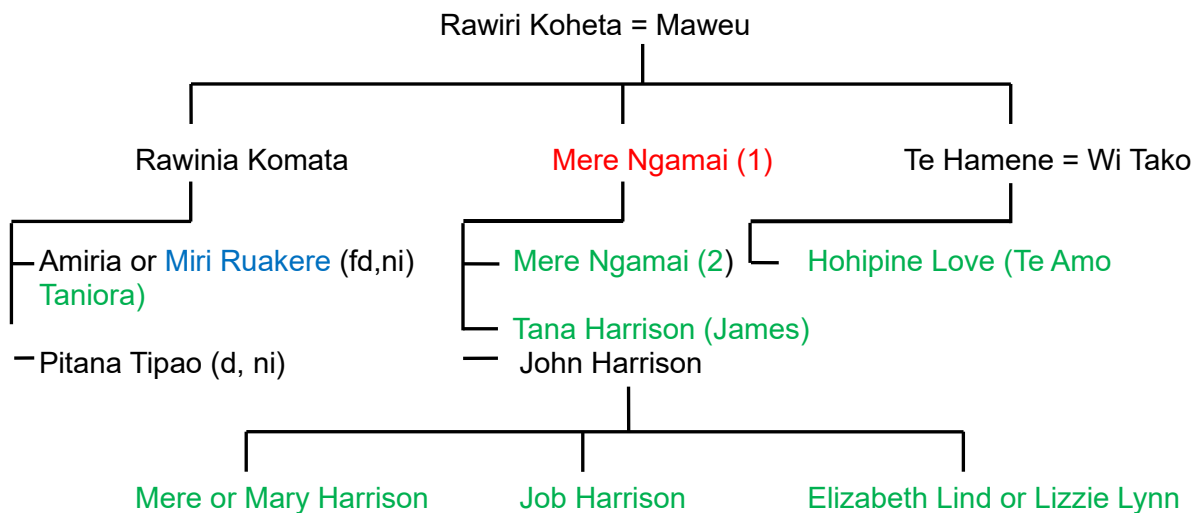
Amelia Ekdahl	24.772 shares
Agnes Maud Robson	24.771 shares
Elizabeth Robson	24.771 shares
James Charlton Robson	24.771 shares
John Harrison Robson	24.771 shares
Thomas Robson	24.771 shares
Mary Rachel Stowell	24.770 shares

17. Reference is made to 1C Wellington MB 28-39 dated 26 & 27 June 1868. This minute refers to a complaint against Manihera Te Tohu and ownership of whenua located in Ngauranga. Of interest is the korero given in respect to relationships of interested parties to the land. Taken from these minutes, we have compiled the following whakapapa given from Wi Tako:



Wi Tako confirmed in his evidence that he was married to Mere Ngamai first who passed in 1852 and then to Mere Tako whom he married in 1853.

18. Whakapapa has been presented by Mere Ngamai (2) or Mrs Robson in respect to the succession to Miri Ruakere, fd, no children, taken from the Court minutes 9 Taranaki MB 368-369 & 372-373 dated 25 & 26 May 1905 as referenced at paragraph 7 reads:



Successors/Beneficiaries

	<u>Name</u>	<u>Sex</u>	<u>Proportion</u>
1	Mere Ngamai (2)	f	1/6
2	Te Amo Taniora	f	½
3	Tana Harrison (James)	m	1/6
4	Job Harrison	m	1/18
5	Mere Harrison	f	1/18
6	Elizabeth Lind	f	1/18

Details of subsequent Orders affecting lands to which this application relates

19. Succession to Amelia Ekdahl at 102 Aotea MB 65 dated 29 January 2001.
20. Succession to John David Ekdahl at 134 Aotea MB 246-250- dated 3 December 2003.
21. Succession to Agnes Maude Robson at 2 Auckland Succession MB 370-371 dated 3 October 1990 and 3 Auckland Succession MB 227 dated 11 December 1992.
22. Succession to Elizabeth Robson at 2 Auckland Succession MB 370-371 dated 3 October 1990 and 3 Auckland Succession MB 227 dated 11 December 1992.
23. Succession to James Charlton Robson at 2 Auckland Succession MB 370-371 dated 3 October 1990 and 3 Auckland Succession MB 227 dated 11 December 1992.
24. Succession to Thomas Robson at 2 Auckland Succession MB 370-371 dated 3 October 1990 and 3 Auckland Succession MB 227 dated 11 December 1992.
25. Amendment Order where the shares of those determined entitled at 2 Auckland Succession MB 370-371 dated 3 October 1990 were incorrect and the shares amended accordingly.
26. Succession to John Harrison Robson at 35 Aotea MB 123-124 dated 4 November 1993.
27. Amendment Order correcting the orders made at 2 Auckland Succession MB 370-371 dated 3 October 1990 by deleting the names Vernon Thomas Robson, Archibald Carlyle Robson, and Edward James Charlton Robson and adding the names Dormia Rona Laurette Robson, Kathleen Annette Bowden, and Ngaio Ann Lewis.
28. Chief Judge Order amending the orders made at 2 Auckland Succession MB 370-371 dated 3 October 1990 revesting shares in Eric Robson and then confirming an arrangement vesting interests in Joan Robson with the consent of Joan Davidson.
29. Succession to Olive Townsend or Brownie Townsend at 97 Aotea MB 137-138 dated 7 April 2000.
30. Succession to Maxine Raiha Rogers at 378 Aotea MB 58-61 dated 23 November 2017.

31. Succession to Ena Maxine Major at 5 Whangarei Succession MB 45 dated 30 January 2003.
32. Constitution of the Paora-Chamberlain Whānau Trust where the shares of Robson Chamberlain are vested into the trust. Orders made at 24 Waikato Maniapoto MB 276-285 dated 5 July 2011.
33. Succession to Ann Ngaio Lewis or Ngaio Ann Lewis at 464 Aotea MB 120-121 dated 22 March 2023.
34. Court Order amending the name of Maxine Robson in North Island Tenth to read Maxine Arnold at 16 Whanganui Registrars MB 114 dated 26 October 2007.
35. Succession to Kathleen Annette Bowden at 238 Taitōkerāu MB 1-4 dated 27 July 2021.
36. Succession to John David Ekdahl at 134 Aotea MB 247-250 dated 3 December 2003.

Reference to areas of difficulty

37. The Court is not able to confirm the identity of Mere Ngamai, although evidence of the original ownership list for North Islands Tenth and the succession to Amiria Komata (Ruakere) at 1A Taranaki MB 94-95 dated 12 April 1899 suggest that the applicant is correct that the Mere Ngamai succeeded to at 24 Wellington MB 283 dated 14 July 1925 was his great great grandmother and not her daughter, Mere Ngamai Kapa or Robson.
38. Evidence presented to the Court from Wi Tako at paragraph 16 informs the Court that Mere Ngamai had passed in 1852. The original owners of North Island Tenth under the schedule dated in 1873 has an entry with Mere Ngamai with 190 shares but also entries for Pitana Komata and Miri Komata who come off Komata or Rawinia and Pitihira Tapaki who comes off Te Hamene or Mere Wi Tako.

Assuming the accuracy of this information, it raises the question of why the descendants of Mere Ngamai are not named in a similar manner to the children of Komata and Rawinia.

39. If Mere Ngamai was the same as Mere Ngamai Kapa or Robson, there is no record of any entry for her brothers, John Harrison, and James (Te Tana Harrison) Harrison or their descendants on the original list of owners for North Islands Tenth.
40. Her Honour will be required to determine whether or not the order 24 Wellington MB 283 dated 14 July 1925 relating to succession to Mary Ngamai (Mere Ngamai) is incorrect. If so, then this order will need to be amended by deleting those named and replaced with the names Mere Ngamai Kapa or Mrs Robson, John Harrison, and James Harrison or Te Tana Harrison with equal shares. All consequential orders made will also require amending.

Consideration of whether matter needs to go to full hearing

41. It is recommended that the matter be set down for hearing, to afford the parties further opportunity to either agree with this report or present evidence to progress this matter.

Recommendation of course of action to be taken

42. If the Chief Judge is of a mind to exercise her jurisdiction, then it would be my recommendation that:
- a. The application be set down for hearing during the June 2024 Court circuit.
 - b. A copy of this report be sent to all affected parties, for whom we have contact details for, to give them an opportunity to comment in writing no later than 15 June 2024.

Ko te hātepe ture o te tono nei

Procedural History

[5] On 29 May 2024, a copy of the Registrar' Report was distributed to parties with known addresses. Parties were given an opportunity to submit their comments on the Report.

[6] The application was heard before me on 19 June 2024. I reserved my decision.

Ngā Ture

The Law

[7] 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.

[8] 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: ¹

- 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);

¹ *Ashwell – Rawinia or Lavinia Ashwell (nee Russell)* [2009] Chief Judge's MB 209 (2009 CJ 209) at [15].

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

[9] 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.

[10] 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 of 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.² This means that the applicant must establish on the balance of probabilities that there was a mistake or omission.

[11] The Court of Appeal has confirmed that the power under s 44(1) of the Act falls into two parts:³

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

² *Tau v Nga Whānau o Morven and Glenavy – Waihao 903 Section IX Block* [2010] Māori Appellate Court MB 167 (2010 APPEAL 167) at [61].

³ *Inia v Julian* [2020] NZCA 423 at [10].

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.

Ngā take

The issues

[12] 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?

Kōreroreo

Discussion

[13] The applicant agrees with the report and is clearly of the view and understanding that Mere Ngamai and Mere Ngamai Kapa or Robson were two different people. They were mother and daughter. The applicant says that the children of Mere Ngamai Kapa have been included in succession orders to lands of Mere Ngamai (her mother), because it was determined incorrectly that Mere Ngamai Kapa (the daughter) was Mere Ngamai (the mother).

[14] The evidence shows that there were two Mere Ngamai. Mere Ngamai the mother and Mere Ngamai Kapa or Robson the daughter.

[15] The evidence of the original ownership list for North Islands Tenths and the succession to Amiria Komata (Ruakere) at 1A Taranaki MB 94-95 dated 12 April 1899 suggest that the applicant is correct that the Mere Ngamai succeeded to at 24 Wellington MB 283 dated 14 July 1925 was his great-great-grandmother and not her daughter, Mere Ngamai Kapa or Robson.

[16] Evidence informs the Court that Mere Ngamai had passed in 1852. The original owners of North Island Tenths under the schedule dated in 1873 has an entry with a Mere

Ngamai with 190 shares but also entries for Pitana Komata and Miri Komata who come off Komata or Rawinia and Pitihira Tapaki who comes off Te Hamene or Mere Wi Tako.

[17] It is then unclear why the descendants of Mere Ngamai are not named in a similar manner to the children of Komata and Rawinia.

[18] Concluding (as I have) that Mere Ngamai on the original list of owners for North Island Tenth refers to Mere Ngamai the mother, there is no record on the original list of owners of any entry for Mere Ngamai (the daughter) receiving shares, nor for her brothers John Harrison, and James (Te Tana) Harrison or their descendants.

[19] The Court record in summary shows:

- (a) 1852 – Mere Ngamai (the mother) passed away.
- (b) 1873 – 12 March. A Mere Ngamai is recorded as an original owner of North Island Tenth with 190 shares.
- (c) 1898 – 1 May. Mere Ngamai Kapa gave evidence. Whakapapa and evidence recorded at 1A Taranaki MB 94-95 dated 12 April 1899 in respect to the succession of Amiria Komata (Ruakere) also known as Miri Ruakere informed the Court that Amiria Komata was deceased leaving no children. The evidence shows that Mere Ngamai had three children, Mere Ngamai Kapa, John Harrison and James Harrison.
- (d) 1905 – 26 May. Court minutes 9 Taranaki MB 368-369 & 9 Taranaki MB 372-373 dated 25 & 26 May 1905 record Mere Ngamai or Mrs Robson giving evidence with respect to the succession to Miri Ruakere. The evidence is consistent with the evidence given in 1898 that Mere Ngamai or Mrs Robson and two siblings John Harrison and James Harrison.
- (e) 1924 – Mere Ngamai Kapa died.
- (f) 1925 – 14 July. The Court made orders relating to Mere Ngamai in North Island Tenth (Wellington Tenth) equally to the children of Mere Ngamai

Kapa or Robson but not to her siblings, John Harrison and James Harrison, or their children.

[20] There has been an error in the 1925 succession to Mere Ngamai, because the evidence suggests the succession was in respect of interests held by Mere Ngamai (the mother) but the lands went to only the children of Mere Ngamai or Mrs Robson (the daughter). Therefore, Mere Ngamai's two sons John Harrison and James Harrison were not included. This is despite the Court recording the evidence of Mere Ngamai Kapa (the daughter) on two occasions clearly showing that Mere Ngamai (the mother) had three children, Mere Ngamai Kapa or Robson, John Harrison and James Harrison.

Kupu whakataua

Decision

[21] Based on this evidence I determine that the order 24 Wellington MB 283 dated 14 July 1925 relating to succession to Mary Ngamai (Mere Ngamai) is incorrect.

[22] I am of the view that there was an error made and it is necessary and in the interests of justice to remedy the error.

[23] Given there has been an error in the order 24 Wellington MB 283 dated 14 July 1925 relating to succession to Mere Ngamai, those named as entitled to succeed in that order should be replaced with Mere Ngamai Kapa or Mrs Robson, John Harrison and James Harrison in equal shares.

[24] All consequential orders made will also require amending.

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

I whakapuaki i te 10.00am i Rotorua, te tuawhā o ngā rā o Hepetema i te tau 2025.
Pronounced at 10.00am in Rotorua on this 4th day of September 2025.

C T Coxhead
DEPUTY CHIEF JUDGE