

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

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

**AP-20230000019630
A20150003124
CJ 2015/29**

WĀHANGA <i>Under</i>	Section 45, Te Ture Whenua Māori Act 1993
MŌ TE TAKE <i>In the matter of</i>	Succession to Piri Tuari also known as Pire Tuari and Aperahama Tuari also known as Pora Abraham Stewart
NĀ <i>By</i>	RANEA NURI AND NIWA NURI Ngā Kaitono <i>Applicants</i>

Nohoanga:
Hearing

9 June 2025, 2025 Chief Judge's MB 861-865
13 March 2025, 2025 Chief Judge's MB 781
18 December 2024, 2025 Chief Judge's MB 281-316
26 September 2024, 2024 Chief Judge's MB 1718-1719
12 September 2024, 2024 Chief Judge's MB 1190-1191
19 June 2024, 2024 Chief Judge's MB 1172-1185
27 March, 2024 Chief Judge's MB 506-511
(Heard at Wellington via Zoom)

Whakataunga:
Judgment date

15 September 2025

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

Hei tīmatanga kōrero

Introduction

[1] This application, filed by Ranea Nuri and Niwa Nuri in 2015, seeks orders pursuant to s 44 of Te Ture Whenua Māori Act 1993 (the Act) to amend succession orders made at:

- (a) 4 Te Kaha MB 274 dated 9 June 1915, succession to Piri or Pire Tuari;
- (b) 4 Te Kaha MB 371-372 dated 24 March 1916, succession to Piri Tuari;
- (c) 128 Gisborne MB 24-26 dated 28 May 1987, succession to Aperahama Tuari or Pora Abraham Stewart;
- (d) 130 Gisborne MB 142 dated 4 April 1989, succession to Aperahama Tuari or Pera Abraham Stuart; and
- (e) 87 Wairoa MB 71 dated 30 October 1989, succession to Aperahama Tuari.

Kōrero whānui

Background

[2] The Registrar's Preliminary Report and Recommendation ("the Registrar's Report") dated 8 May 2024 sets out the background to the application. The Registrar's Report is reproduced in full as follows:

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

Introduction

1. This application has been filed by Niwa Rangi Nuri and Ranea Reihana Taranaki Nui (the applicants) who seek to amend succession orders:
 - (a) 4 Te Kaha MB 274 dated 9 June 1915 being succession to Piri or Pire Tuari;
 - (b) 4 Te Kaha MB 371-372 dated 24 March 1916 being succession to Piri Tuari;
 - (c) 128 Gisborne MB 24-26 dated 28 May 1987 being succession to Aperahama Tuari or Pora Abraham Stewart;
 - (d) 130 Gisborne MB 142 dated 4 April 1989 being succession to Aperahama Tuari or Pera Abraham Stuart; and
 - (e) 87 Wairoa MB 71 dated 30 October 1989 being succession to Aperahama Tuari.
2. The applicants claim that the mistake error or omission in presentation of the facts of the case to the Court is:
 - 1) The omission was in the presentation of the fact to the court in 1915. Piri Tuari had three children to Miriama Hakena and four children to Riripeti Weepu (as outlined in the whakapapa we have provided). Attachment 1.

Unfortunately, Harawira Akuhata in 1915 only gave the names of all of Riripeti's four children and only one of Miriama's children thereby leaving out Miriama

and Piri's two daughters Pau-te-awa Tuari and Kataraina Tuari (refer 32 OPO 273-271).

We ask that the court amend this 1915 order to include Piri Tuari's natural daughters and any other subsequent order that omitted their names in succession or further succession to their father Piri Tuari. We have supplied timeline of court hearings, minutes, orders as attached to assist you in assisting us to reconnect to our whenua tukuiho. Attachment 2.

- 1A) Secondly and subsequently as a direct result of the 1915 order regarding Aperahama Tuari our koroua Piri Tuari's oldest son and also the full brother of both Pau-te-awa Tuari and Kataraina Tuari. On 06.06.1982 succession to Aperahama or Abe Tuari or Stuart took place recognising that his successors were his two full sisters with substitute of their issue. However, some five years later on 28.05.1987 Aperahama's half-brother (same father different mother) applies to the court for him and his full siblings to succeed to the remaining estate of their half-brother Aperahama. They do so and they also inherit the interests of land Aperahama received from his maternal side including lands he inherited with his full sisters from their mother sister's Waka Katae. Would you kindly amend those orders recognising that the rightful successors to Aperahama (Pera, Abraham or Abe) Tuari (Stewart or Stuart) estate are indeed his two full sisters as prescribed for in 59 OPO 96 or with substitute of their issue.

We have been adversely affected by this order and subsequent orders because our association with our customary lands been limited and, in some cases, entirely removed from our possession. Detrimentially some of the lands that should have been rightly inherited by us have been partitioned off, converted into general title, and even sold. To add insult to injury lands that belonged to our maternal side were given to our relations who have no connection to the whenua, and they have enjoyed the benefits for more than half century and in some cases for 100 years. We have suffered spiritually and culturally from legally not being owners in lands that rightfully belong to us. We have from a distance watched our estate shrink drastically without any recourse. Our kuia their children and their mokopuna never got to enjoy their whenua tukuiho. It is our sincere hope that you assist us to reconnect, rebuild and most importantly rekindle our ahi kaa as our kuia were forced to reside outside of their turangawaewae and had to make home for their children and themselves among their inlaws.

Concise history of Orders sought to be amended/cancelled

Succession to Piri Tuari also known as Pire Tuari

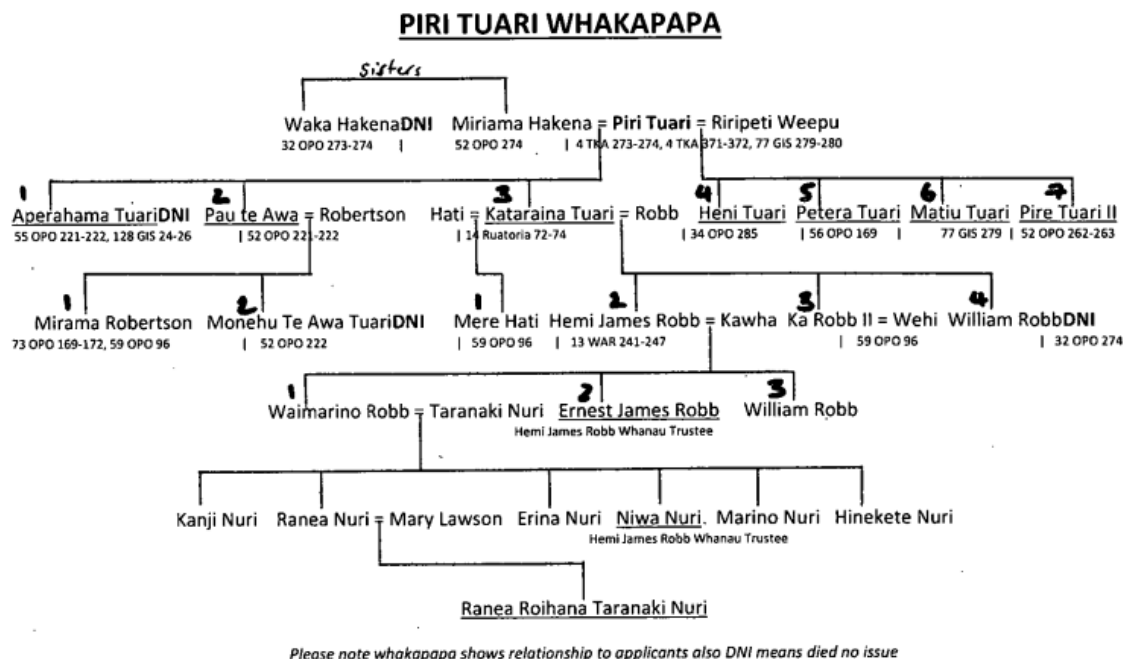
3. At 4 Te Kaha MB 274 dated 9 June 1915, the Court determined the persons entitled to the interests of Piri Tuari in the Iwi-roa and Te Kaha blocks as Aperahama Tuari ma, Heni Tuari fa, Petera Tuari m 15, Matiu Tuari m 12 and Pire Tuari m 8 equally. These persons were recorded as the children of Piri Tuari.
4. At 4 Te Kaha MB 371-372 dated 24 March 1916, the Court determined the persons entitled to his interests in the Mangaroa and Orete No 2 blocks as Aperahama Tuari ma, Heni Tuari fa, Petera Tuari m 15, Matiu Tuari m 12 and Pire Tuari m 8 equally. The interests were vested in accordance with an arrangement. The Iwi-roa block was also included in the minute and order, but Piri Tuari did not own interests in Iwi-roa as they had been dealt with at 4 Te Kaha MB 274.

Succession to Aperahama Tuari or Pora Abraham Stewart

5. At 128 Gisborne MB 24-26 dated 28 May 1987, the Court heard the application for succession in respect of Aperahama Tuari. The minute recorded that the applicant was a half-brother to the deceased. The minute discussed the sources of the deceased's interests and adjourned the application so that the minutes of the succession orders where the deceased acquired his interests could be sourced and information on what happened to his brothers and sisters' interests in the lands the subject of the application.
6. At 130 Gisborne MB 142 dated 4 April 1989, the Court made an order determining the persons entitled to his interests in multiple Te Kaha blocks as Heeni Tuari or Puha, Matiu Tuari or Puha and Pire Tuari equally. These persons were recorded as the siblings of Aperahama Tuari who survived him or alternatively did not survive but left issue. The application was stood down in respect of the monies held on beneficiary rent cards.
7. At 87 Wairoa MB 71 dated 30 October 1989, the Court vested the interests of Piri Tuari in Iwiroa 9 in Heeni Tuari or Puha, Matiu Tuari or Puha and Pire Tuari equally.

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

8. In addition to filing the minutes and orders where the orders complained of were made, the applicant has also provided the following information in support of the application:
 - (a) Attachment 1 – Piri Tuari Whakapapa:



- (b) Attachment 2 – Timeline:

TIMELINE:

DATE REF	MINUTE REF:	SUBJECT:	APPLICATION TYPE
09.06.1915	4 TKA 273-274	Harawira Akuhata sworn he presented the court firstly with the information for Riripeti Weepu's children & her succession. Then he presented a succession for Piri Tuari and named all of Riripeti Weepu's children and one other who was Aperahama Tuari but he did not include Aperahama's full sisters.	Succession to Riripeti Weepu then a succession to Piri Tuari.
24.03.1916	4 TKA 371-372	Hoani Retimana sworn he files a further succession to Pire Tuari court relies on P/E 4 TKA 274	Further Succession to Piri Tuari
29.05.1951	32 OPO 273-274	Ngamotu Tukaki sworn a succession to Waka Katae's estate who is the full sister of Miriama Hakena. Waka had no issue the majority of her estate was succeeded to by her sister with substitution of sisters children the three Tuari kids. Please note: We will bring another section 45 to challenge distribution of this estate. Why were some blocks transferred and others to families not related.	Succession to Waka Katae of Waka Hakena
19.09.1957	34 OPO 285	Aperahama Tuari exchanges his shares in Te Kaha 29B2B2 with his half sister Heni Tuari interests in Orete No 2.	Exchange of interests
04.05.1977	52 OPO 221-222	A further succession to Waka Katae's interests in Te Kaha No 51. These interests transferred to her sisters three children Aperahama Tuari, Pau te Awa Tuari & Katarain Robb with substitution of their issue. Court refers to P/E 32 OPO 273-274	Further Succession to Waka Katae
26.07.1977	52 OPO 274	Court refers to P/E 32 OPO 273-274 and orders are drawn up accordingly.	Futher Succession to Waka Katae
06.06.1982	59 OPO 96	Miriama Robertson sworn Court refers to P/E 32 OPO 273-274 Aperahama Tuari's interests in Iwiroa 9 & Te Waiti 2C2	Succession to Aperahama (Abe) Tuari
28.05.1987	128 GIS 24-26	Piri or Pire Tuari II (William Stewart) sworn he's seeking to succeed to his half brother Aperahama Tuari despite an earlier succession in 1982 to his full sisters with substitute of their issue. This judge initially identifies issues and ask court attendants to find the minutes of 4 TKA	Further Succession to Aperahama Tuari
04.04.1989	130 GIS 142-144	The court reconvenes to discuss the 128 GIS 24-26 application & it questions where his half brothers & sister are in lands that he is in solely. The answer to this is that these lands are from his mother & have been in his half brothers & sisters possession since this date even though he had two full sisters.	Further Succession to Aperahama Tuari
30.10.1989	87 WR 71	Piri or Pire Tuari II (William Stewart) sworn again and the court relies on P/E - 130 GIS 142-144 & creates an order to hand to the applicant & his full siblings Iwiroa 9 4.720 interest as well the court directs that his Waiariki beneficiary rent cards 9325 & 23549 be paid out.	A further succession to Aperahama Tuari

- (c) The minute of 4 Te Kaha MB 274 dated 9 June 1915 – succession to Piri Tuari - sets out:

From 4 Te Kaha MB 273:

Iwiroa and Te Kaha

Application to succeed to deceased owners

Harawira Akuhata sworn

...

Piri Tuari deceased

Knew this deceased when alive. Died June 1914. No will. Children.

<i>Aperahama Tuari</i>	<i>ma</i>
<i>Heni Tuari</i>	<i>fa</i>
<i>Petera Tuari</i>	<i>m 15</i>
<i>Matiu Tuari</i>	<i>m 12</i>
<i>Pire Tuari</i>	<i>m 8</i>

I ask that this be appointed equally, and that Heni Tuari be appointed trustee for minors.

No objections.

Orders accordingly

- (d) The minute of 4 Te Kaha MB 371-372 dated 24 March 1916 – succession to Piri Tuari - sets out:

Mangaroa
Iwiroa
Orete No 2

Succession to Piri Tuari

Hoani Retimana sworn

Knew this deceased when alive. Died 16th September 1914. No will. Children.

<i>Aperahama Tuari</i>	<i>ma</i>
<i>Heni Tuari</i>	<i>fa</i>
<i>Petera Tuari</i>	<i>m 15</i>
<i>Matiu Tuari</i>	<i>m 12</i>
<i>Pire Tuari</i>	<i>m 8</i>

It has been arranged that orders should be made as follows:

Mangaroa

Successors-

<i>Romio Wepu Trustee</i>	<i>Matiu Tuari</i>	<i>m 12</i>
<i>Wiremu Wepu Trustee</i>	<i>Pire Tuari</i>	<i>m 8</i>

Orete No 2

Iwiroa

Successors-

	<i>Aperahama Tuari</i>	<i>ma</i>
	<i>Heeni Tuari</i>	<i>fa</i>
<i>Heeni Tuari Trustee</i>	<i>Petera Tuari</i>	<i>m 15</i>
<i>Romio Wepu Trustee</i>	<i>Matiu Tuari</i>	<i>m 12</i>
<i>Wiremu Wepu Trustee</i>	<i>Pire Tuari</i>	<i>m 8</i>

- (e) Court minute and orders 32 Opotiki MB 273-274 dated 29 May 1951 – Succession to Waka Hakena or Waka Katae. The salient portion of the minute sets out:

...

Miriama Kohatu – sworn – the Miriama referred to was my mother's mother. She had:

Abe Stuart or Tuari	ma	1/3
Pau te Awa or Tuari	d. no will – issue	
Ka Robb	d. no will – issue	

Pau te Awa Tuari had:

Miriama Roberston	fa	1/3
Morehu te Awa	d. no will – issue	

Ka Robb had:

Mere Hati	fa	1/9
Hemi Robb	ma	1/9
Ka Robb II	fa	1/9

Wiremu Robb d. no will – no issue

No objections
Ordered accordingly.

- (f) Court minute 59 Opotiki MB 96 dated 6 July 1982 – Succession to Abe Tuari.
The minute sets out:

Miriama Robertson says

Refer Opotiki MB 32/273-4

Abe Tuari was my uncle – died 16 August 1961.
I attended the tangi. He left no children – he had one whangai (not legally adopted) Mary Rankin.

The deceased's sister (my mother) Pau Te Awa had two issue:

1. Miriama Robertson fa
2. Morehu te Awa md No will – no issue.

His other sister Ka Robb had the following issue:

3. Mere Hati fd Since 1968 – issue
4. Hemi Robb md Since 1968 – issue
5. Ka Robb II fa
6. Wiremu Robb md No will – no issue.

Court: Persons entitled are No 1 above as to ½ share; and Nos 3 to 5 inclusive as to 1/6th share each.

Order s 136/53 vesting –

Iwiroa 9 Value \$130.27
Te Waiti 2C2 Value \$298.63
in persons entitled in their respective shares.

Order s32/53 for payment of funds on B/Card 25937 to Miriama Robertson.

- (g) The minute of 128 Gisborne MB 24-26 dated 28 May 1987 – Succession to Aperahama Tuari also known as Pora Abraham Stewart. The salient portions of the minute sets out:

From 79 Whakatane MB 18 dated 3.02.1987

Matthew William Stewart sworn:

I live at 42 Huxley Road, Gisborne. Deceased was my half-brother. He was a child of Piri Tuari (father). Mother unknown from Ngapuhi. He died 15 August 1961. No will that I know of. No issue. Brothers and sisters:

- (i) Heni Tuari F.D. Issue (after the deceased)
- (ii) Petera Tuari M.D. No Issue died before Aperahama
- (iii) Matiu Tuari M.A. Applicant
- (iv) Pire Tuari M.D. No issue (one child adopted) died before Aperahama

...

Court: Deceased acquired his land interests on 9.6.1915 from succession to:
Riripeti Weepu or Tuari or
Piri Tuari

- (h) The minute of 130 Gisborne MB 142 dated 4 April 1989 – Succession to Aperahama Tuari or Pora Abraham Stewart sets out:

Janice Simpson for Registrar in Support:-

I refer to minutes from 28 May 1987 at 128 Gisborne MB 24-26 where the Court directed the following:

- (I) The minutes of both succession orders by which the deceased acquired his interests.
- (II) What happened to his brothers and sisters' interests in the land which are the subject of this application.
- (III) Attach a copy of the minutes of 9.6.1915 on succession to Riripeti Wepu.

The deceased only succeeded to his father Piri Tuari at 4 Te Kaha MB 274 of 8.6.1915 and a copy of folio 273 concerning Riripeti Weepu or Tuari's succession is now attached to application.

Brothers and sisters of the deceased are:

- 1. Heeni Tuari or Puha f.d. 1.3.1983 left issue.
(Ref. 6 Rgwk 206 of 13.11.1987)
- 2. Petera Tuari m.d. 1920 left no will, or issue.
(Ref. 77 GIS 279-280 of 25.1.1955)
- 3. Matiu Tuari or Puha m.a. 42 Huxley Road, Gisborne,
Applicant in previous minutes
- 4. Pire Tuari m.d. 10.7.1970 left no will, left one child
(Ref. 52 OPO MB 262-263 of 3.6.1977)

The applicant gave evidence at 128 Gisborne MB 24-26 ...

I therefore ask for an order s135/53 determining that nos. 1, 3 and 4 are entitled equally to interests derived from father and an order s136/53 vesting:

Te Kaha A1	3.60000
Te Kaha A No. 2	3.60000
Te Kaha A No. 3	3.60000
Te Kaha B No. 6B	1.00000
Te Kaha B No. 6Z No. 1	3.60000
Te Kaha 29B 2B No. 2	0.61728
Te Kaha No. 51	1.90000

In numbers 1, 3 and 4 equally.

Court: Orders Accordingly. Stand down in respect of money on beneficiary rent card...

- (i) The minute of 87 Wairoa MB 71 dated 30 October 1989 sets out:

Matthew William Stewart on oath: I rely on minutes from 130 Gisborne MB 142-144 of 4.4.1989 where the Court ordered part of the application but stood down the application in respect of money on the beneficiary cards.

On 24.3.1916 an order was made on succession to Piri Tuari to his 5 children in Orete No. 2 block. It also appears that the above deceased exchanged interests in Te Kaha 29B2 for shares in Orete 2 on 19.9.1957 at 34 Opotiki MB 285.

It has also been found that the deceased has an interest in:-

Iwiroa 9	4.720	\$596.96
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I therefore ask for an order Section 136/1953 vesting: -

Iwiroa 9	4.720	\$596.96
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in persons determined entitled at 130 Gisborne MB 142-144 of 4.4.1989...

- (j) Court minute 34 Opotiki MB 285 dated 1 August 1957. The Court made an order exchanging the shares of Aperahama Tuari in Te Kaha 29B 2 with the shares of Heni Puha or Heni Tuari in Orete 2.
- (k) Court minutes 52 Opotiki MB 221-222 dated 4 May 1977 and 52 Opotiki MB 274 dated 26 July 1977. The minute deals with succession to the interests of Waka Katae in Te Kaha 51. The Court determined persons entitled based on previous evidence set out at 32 Opotiki MB 273-274.

Court Research

- 9. Derivation of the land interests of Aperahama Tuari also known as Pora Abraham Stewart or Abe Tuari involved in the orders complained of:
 - (a) Interests succeeded to at 59 Opotiki MB 96 on 6 July 1982 by Miriama Robertson as to a ½, Mere Hati, Hemi Robb, and Kia Robb II as 1/6 each:

<u>Block</u>	<u>Shares</u>	<u>Derivation</u>
Iwiroa 9	1.030	Waka Katae at 32 Opotiki MB 273-274 (in Iwiroa 3 block)
Te Waiti 2C2	4.33333	Waka Katae at 32 Opotiki MB 273-274

- (b) Interests succeeded to at 130 Gisborne MB 142-144 by Heni Tuari, Matiu Tuari and Pire Tauri equally:

<u>Block</u>	<u>Shares</u>	<u>Derivation</u>
Te Kaha A1	3.6000	Piri Tuari at 4 Te Kaha MB 274 (in Te Kaha block)
Te Kaha A2	3.6000	Piri Tuari at 4 Te Kaha MB 274 (in Te Kaha block)
Te Kaha A3	3.6000	Piri Tuari at 4 Te Kaha MB 274 (in Te Kaha block)
Te Kaha B 6B	1.0000	Piri Tuari at 4 Te Kaha MB 274 (in Te Kaha block)
Te Kaha B 6Z1	9.200	Piri Tuari at 4 Te Kaha MB 274 (in Te Kaha block)
Te Kaha 29B 2B 2	0.61728	Miriama Robertson at 36 Opotiki MB 56 by vesting order (in Te Kaha 29B2B block) ¹
Te Kaha 51	1.90000	Piri Tuari at 4 Te Kaha MB 274 (in Te Kaha block)

¹ He had other interests that he received from Waka Katae at 33 Opotiki MB 245 and Piri Tuari at 4 TKA 274 but had exchanged all those interests with Heni Tuari.

- (c) Interests succeeded to at 87 Wairoa MB 71 Heni Tuari, Matiu Tuari and Pire Tauri equally:

<u>Block</u>	<u>Shares</u>	<u>Derivation</u>
Iwiroa 9	4.720	• Piri Tuari at 4 Te Kaha MB 274 (in Iwiroa as to 5.4 shares) • Aperahama Tuari was an original owner (in Iwiroa as to 27 shares)

Details of subsequent Orders affecting lands to which this application relates

10. 51 Ruatoria MB 293-297 dated 1 July 1998 - Succession to Matiu Tuari.
11. 100 Tairawhiti MB 38-42 dated 2 December 2020 – Constitute the Matiu Stewart Whānau Trust over the interests of Rachel Mary Richardson, Vance Winters Richardson, Sheryl Marice Richardson, Stewart John Richardson.
12. 25 Registrar's Tairawhiti MB 114-115 dated 13 October 2003 – Succession to Heni Tuari.
13. 66 Ruatoria MB 267-268 dated 6 November 2003 – Succession to Urikore Bristowe.
14. 93 Opotiki MB 274-276 dated 27 October 2006 – Succession to Tame Webb.
15. 2 Waiariki MB 255-262 dated 3 February 2010 – Succession to Kareti Karepa.
16. 91 Opotiki MB 159-163 dated 4 May 2006 – Succession to Hone Puha.
17. 158 Waiariki MB 94-100 dated 2 March 2017 – Succession to Heremia Puha.
18. 102 Tairawhiti MB 248-250 dated 19 March 2021 – Amendment of name to Ruth Gleanor Te Ngahue.
19. 43 Tairawhiti MB 206-210 dated 4 November 2014 – Succession to Ellen Te Tau.
20. 203 Waiariki MB 56-59 dated 6 December 2018 – Succession to Horowai Lena Hancy.
21. 235 Taitokerau MB 71-76 dated 1 June 2001 – Succession to Elizabeth Broughton.
22. 210 Taitokerau MB 148-159 dated 25 February 2020 – Succession to Heni Broughton.
23. 52 Opotiki 262-263 dated 3 June 1977 – Succession to Pire Tuari.
24. 318 Aotea MB 56-63 dated 21 March 2014 – Constitute the Urikore Dwyer Whānau Trust.

Details of payments made as a result of the Order

25. A response from Te Tumu Paeroa is still pending.

Reference to areas of difficulty

26. The application files for the orders made at 130 Gisborne MB 142 and 87 Wairoa MB 71 - succession to Aperahama Tuari or Pera Abraham Stuart – cannot be located.

Consideration of whether matter needs to go to full hearing

Piri Tuari or Pire Tuari

27. In regard to the orders complained of made at 4 Te Kaha MB 273-274 dated 9 June 1915 and 4 Te Kaha MB 371-372 dated 24 March 1916, the applicants have not as yet provided sufficient evidence to prove that an error was made in the presentation of facts at the time the orders were made.

28. To assist the Court in establishing the errors claimed, it is recommended that the applicants file documentary evidence that records the names of the parents of Pau-te-awa Tuari and Kataraina Tuari and particularly the name of their father. Examples of documentary evidence to provide include, but are not limited to:
 - (a) Birth certificate(s),
 - (b) Death certificate(s),
 - (c) Baptismal certificate(s),
 - (d) Māori Land Court minutes or orders,
 - (e) Photographs,
 - (f) School or military records,
 - (g) Marriage certificate(s),
 - (h) Diary, journal, or correspondence written by Pau-te-awa Tuari, Kataraina Tuari, Piri Tuari or Miriama Hakena or the like.

Aperahama Tuari or Pera Abraham Stuart or Pora Abraham Stewart

29. Court minutes 32 Opotiki MB 273-274, 52 Opotiki MB 221-222, 52 Opotiki MB 274 and 59 Opotiki MB 96 evidence that Pau-te-awa Tuari and Kataraina Tuari were half sisters to Aperahama Tuari as their mother was Miriama Hakena. Evidence to definitively conclude that Pau-te-awa Tuari and Kataraina Tuari were the daughters of Piri Tuari is yet to be provided.
30. With respect to the orders potentially at error regarding succession to Aperahama Tuari or Pera Abraham Stuart or Pora Abraham Stewart, an order was not made at 128 Gisborne MB 24-26 and accordingly the jurisdiction of the Court under section 44 or 45 of the Act does not apply to that reference.
31. Regarding the orders made at 130 Gisborne MB 142 dated 4 April 1989 and 87 Wairoa MB 71 dated 30 October 1989, it can be established the Court made an error in not including Pau-te-awa Tuari and Kataraina Tuari as successors to Aperahama Tuari. In both instances, the interests of Aperahama Tuari in part derived from his maternal side and/or he was an original owner together with Pau-te-awa Tuari and Kataraina Tuari.
32. However, the extent of the error still needs to be determined. In the least Pau-te-awa Tuari and Kataraina Tuari ought to have been determined entitled to succeed to the interests that Aperahama Tuari derived from his maternal side and/or the interests that Aperahama Tuari received as an original owner. The quantum of shares that Pau-te-awa Tuari and Kataraina Tuari will be entitled to from succession to Aperahama Tuari will increase if it is determined that Pau-te-awa Tuari and Kataraina Tuari ought to have been determined entitled to succeed to Piri Tuari.
33. The Court's approach with an application of this nature is:
 - (a) To weigh the evidence provided by the applicants against the evidence provided at the original hearing;
 - (b) A challenge to original evidence must be balanced against the presumption that everything has been done lawfully unless there is evidence to the contrary; and
 - (c) That the 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.
34. The applicants are required to prove the existence of the alleged mistake or omission either by the Court or in the presentation of the facts.

35. More evidence is required to fully resolve both matters. The matter is set down for hearing via Zoom at 2.00PM on 19 June 2024, for the applicants and interested parties to address the Court.

Recommendation of course of action to be taken

36. A copy of this report be sent to all affected parties, for whom we have contact details, to give them an opportunity to comment in writing within 28 days from the date of the report and/or respond at the hearing.
37. That the Court receive submissions and/or hear evidence from the applicants, interested parties and affected parties in response to this report and recommendation.
38. The applicants and/or interested parties be provided with sufficient opportunity to provide the documentary evidence sought at paragraph 17.
- (a) Upon the expiry of the period provided – if documentary evidence is filed – then the application be set down for a further hearing.
- (b) If the applicants or interested parties do not supply documentary evidence within the period specified and if the Chief Judge is of a mind to exercise her jurisdiction, then my recommendations are:
- i. With regard to the succession orders relating to Piri Tuari at 4 Te Kaha MB 274 and 4 Te Kaha MB 272-272, this portion of the application is to be dismissed as an error has not been sufficiently established.
 - ii. With regard to the succession orders relating to Aperahama Tuari at 130 Gisborne MB 142 dated 4 April 1989 and 87 Wairoa MB 71 dated 30 October 1989:
 1. The Court makes an order pursuant to section 44(1) of Te Ture Whenua Māori Act 1993 (“the Act”) amending the orders complained of by:
 - a. With respect to the interests of Aperahama Tuari in Te Kaha 29B 2B 2, adding Pau-te-awa Tuari and Kataraina Tuari as successors to a 1/5th each and amending the proportion received by Heeni Tuari or Puha, Matiu Tuari or Puha and Pire Tuari to 1/5th.
 - b. With respect to 3.9333 (of the 4.72) shares of Aperahama Tuari in Iwiroa 9, allocating 1/5th Pau-te-awa Tuari, Kataraina Tuari, Heeni Tuari or Puha, Matiu Tuari or Puha and Pire Tuari each.
 2. The Court makes an order pursuant to section 47(4) of Te Ture Whenua Māori Act 1993 (“the Act”) making all other consequential amendments necessary to give effect to the above order, including amending the orders set out at 10 to 24.

[3] The Registrar's Supplementary Report and Recommendation dated 13 November 2024 was produced in response to information and evidence supplied by Betty Dunn via email dated 11 July 2024. The Report is reproduced in full as follows:

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

Introduction

1. The purpose of this report is to:

- (a) Outline the information and evidence supplied by Betty Dunn by email dated 11 July 2024;
- (b) Undertake research in response to the information and evidence provided;
- (c) Provide conclusions, if feasible.

The application

- 2. This application has been filed by Niwa Rangi Nuri and Ranea Reihana Taranaki Nui (the applicants) who seek to amend succession orders:
 - (a) 4 Te Kaha MB 274 dated 9 June 1915 being succession to Piri or Pire Tuari;
 - (b) 4 Te Kaha MB 371-372 dated 24 March 1916 being succession to Piri Tuari;
 - (c) 128 Gisborne MB 24-26 dated 28 May 1987 being succession to Aperahama Tuari or Pora Abraham Stewart;
 - (d) 130 Gisborne MB 142 dated 4 April 1989 being succession to Aperahama Tuari or Pera Abraham Stuart; and
 - (e) 87 Wairoa MB 71 dated 30 October 1989 being succession to Aperahama Tuari.
- 3. The applicants claim that the mistake error or omission in presentation of the facts of the case to the Court is:
 - 1) The omission was in the presentation of the fact to the court in 1915. Piri Tuari had three children to Miriama Hakena and four children to Riripeti Weepu (as outlined in the whakapapa we have provided). Attachment 1.

Unfortunately Harawira Akuhata in 1915 only gave the names of all of Riripeti's four children and only one of Miriama's children thereby leaving out Miriama and Piri's two daughters Pau-te-awa Tuari and Kataraina Tuari (refer 32 OPO 273-271).

We ask that the court amend this 1915 order to include Piri Tuari's natural daughters and any other subsequent order that omitted their names in succession or further succession to their father Piri Tuari. We have supplied timeline of court hearings, minutes, orders as attached to assist you in assisting us to reconnect to our whenua tukuiho. Attachment 2.

1A) Secondly and subsequently as a direct result of the 1915 order regarding Aperahama Tuari our koroua Piri Tuari's oldest son and also the full brother of both Pau-te-awa Tuari and Kataraina Tuari. On 06.06.1982 succession to Aperahama or Abe Tuari or Stuart took place recognising that his successors were his two full sisters with substitute of their issue. However some five years later on 28.05.1987 Aperahama's half-brother (same father different mother) applies to the court for him and his full siblings to succeed to the remaining estate of their half-brother Aperahama. They do so and they also inherit the interests of land Aperahama received from his maternal side including lands he inherited with his full sisters from their mother sister's Waka Katae. Would you kindly amend those orders recognising that the rightful successors to Aperahama (Pera, Abraham or Abe) Tuari (Stewart or Stuart) estate are indeed his two full sisters as prescribed for in 59 OPO 96 or with substitute of their issue.

We have been adversely affected by this order and subsequent orders because our association with our customary lands been limited and, in some cases, entirely removed from our possession. Detrimently some of the lands that should have been rightly inherited by us have been partitioned off,

converted into general title, and even sold. To add insult to injury lands that belonged to our maternal side were given to our relations who have no connection to the whenua, and they have enjoyed the benefits for more than half century and in some cases for 100 years. We have suffered spiritually and culturally from legally not being owners in lands that rightfully belong to us. We have from a distance watched our estate shrink drastically without any recourse. Our kuia their children and their mokopuna never got to enjoy their whenua tukuiho. It is our sincere hope that you assist us to reconnect, rebuild and most importantly rekindle our ahi kaa as our kuia were forced to reside outside of their turangawaewae and had to make home for their children and themselves among their inlaws.

Procedural history

4. A report and recommendation dated 8 May 2024 has been produced.
5. Hearing notice and the report and recommendation were sent to parties with known addresses on 8 and 9 May 2024.
6. The application was heard via Zoom on 19 June 2004. The application was adjourned, and the parties were provided with three weeks to provide further information to the Court with a further hearing to be held in September 2024.
7. A response was received from Betty Dunn on behalf of the Mere Rankin Whanau on 11 July 2024.
8. The hearing of this application in September was adjourned to allow a further report to be produced in response to the information supplied by Betty Dunn.

Summary of evidence filed by Betty Dunn

9. As set out in the covering email, the information supplied touches upon two different components:
 - (a) The whakapapa for Piri Tuari. This was supported by a bundle of documents that consisted of twelve pages entitled 1990 Reunion – Piri Tuari – Whakapapa.
 - (b) Mere Hone Pera Rankin is the daughter of Abe Tuari and Moengaroa. This was supported by the following documents:
 - i. 1940-1946 Archives – Person Record SJMGC
 - ii. 1957 April 30 – Partition Order TK 29B 2B2
 - iii. 1960 July 27 – Heni Puha Letter to solicitors
 - iv. 1961 Nov 09 – Notice Mtg Owners Te Waiti 2C No. 2
 - v. 1982 Dec 16 – Statement of Service Akld Ed Board
 - vi. 1987 June 07 – Succession letter to Aperahama Stewart's Remaining shares
 - vii. 1991 Feb 25 – Death Cert Aperahama Stewart
 - viii. 1994 May 27 – Letter to Waiariki LC 22 May 1994
 - ix. 1998 Jan 9 – Letter to Waiariki MDL Court
 - x. Mere Hone Pera – (Mums) Birth Certificate
10. The covering email sets out the following:
 1. Evidence of a different version of Piri Tuari's Whakapapa chart, compared to that submitted for the hearing on 19 June 2024. We believe

that there are mistakes made in the chart. According to this version of Piri Tuari's Whakapapa chart, his first marriage produced 3 children only - Aperahama, Kaa and Tom. Pau te Awa is not a sister to Aperahama. Pau te Awa did not marry a Robertson, as Pau te Awa is known as the mother of Miriama. Miriama also known as Miriama Paora or Katae married James (Robbie) Robertson.

2. Also attached is evidence of a letter written by our mother, to the Clerk of the Court, Waiariki Land Court, Rotorua dated 22/5/1994. stating that she is the daughter of Abe Tuari and his wife Moengaroa. We have also included other documents of evidence which we believe are of significance to say that our mother Mere Hone Pera Rankin, should or does have the right to the land interest being claimed for previously, held by Aperahama Tuari/Stewart.

Piri Tuari

11. The following was provided as pages 1 and 2 of the bundle of documents 1990 Reunion – Piri Tuari – Whakapapa:

PIRI STEWART.

From information that has been sub-mitted verbally about Piri we have managed to put together the following report.

We believe that Piri was the eldest son of Captain Stewart and Merekuia.

He was born in 1854 and his first marriage was to a woman by the name of Moeahi, who originated from Kaikohe.

They had three children by the names of Aperahama, Kaa and Tom.

While the children were very young Moeahi left Piri for another man, taking the children with her.

It took Paraika a considerable amount of time to convince his elder brother to leave the county and move down to the East Coa and seek a new life for himself.

After a lot of consideration Piri did just that and moved down to the East Coast looking for work.

He found a job at Cape Runaway with Holts, up-grading a farm and cutting and treating timber and also building houses for the workers on the farm.

During this time Pera had grown up and had gone looking for his father.

Pera found his father and also landed a job contracting with a partner in felling and logging trees.

By this time Piri had settled down and married a Ngati Porou woman by the name of Riripeti.

From this union came three children, Heeni, Matiu and Petera.

There was also another son by the name of Pire, who lived in Opotiki and raised a whangai family.

Piri was accidentally killed in 1914.

His eldest son had a contract to finish, but on the final day for the contract Pera's partner desserted him and Pera had no one to turn to, so went to his father for help in completing the contract.

His father agreed to help him.

They were both working industriously when suddenly a tree fell on top of Piri.

Pera managed to get his father out and carried him to the Coast where he was met by a launch to take him to a doctor in Opotiki.

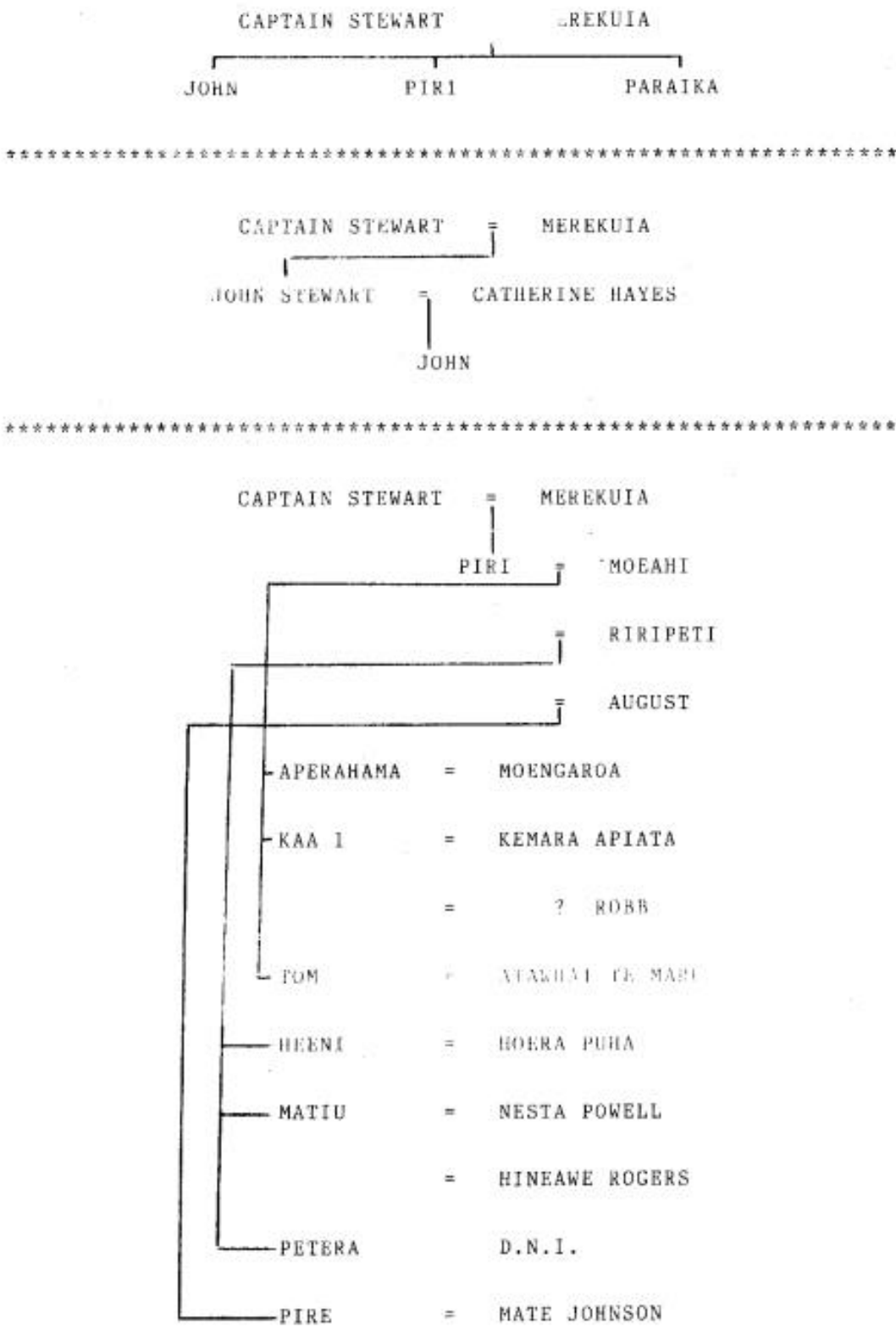
He did not survive the launch trip, so they took him back to Raukokiri to the Maruahinemaka Marae.

Maruahinemaka Marae was a Marae that Piri had a lot of input in, physically, mentally and spiritually, so he was home to rest

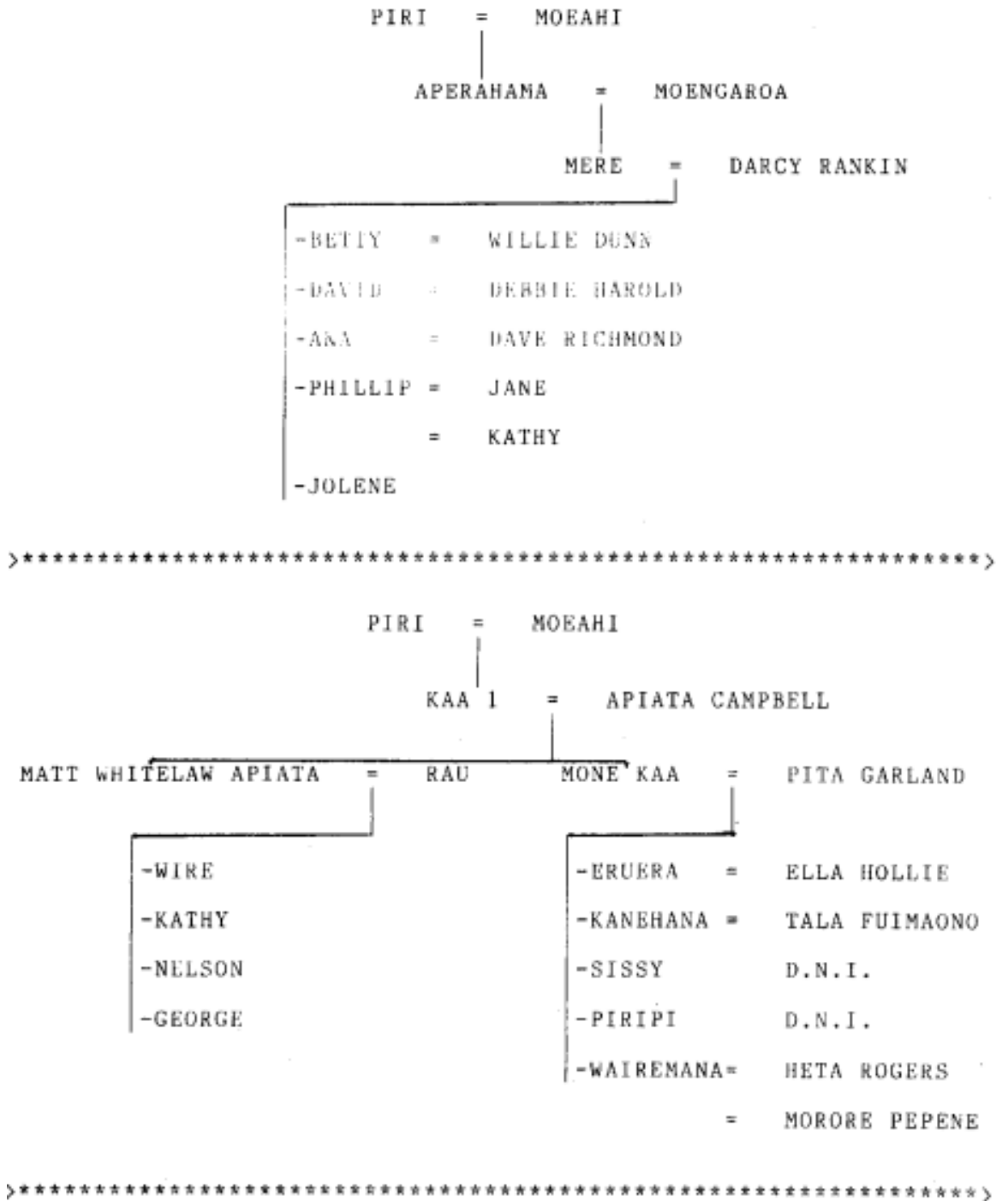
There was a bond there for him as he was at home on his mothers land.

Piri was buried in the cemetery up on the hill behind the Marae that he had helped to build - Maruahinemaka - Raukokiri.

12. The following whakapapa was included as page 9:

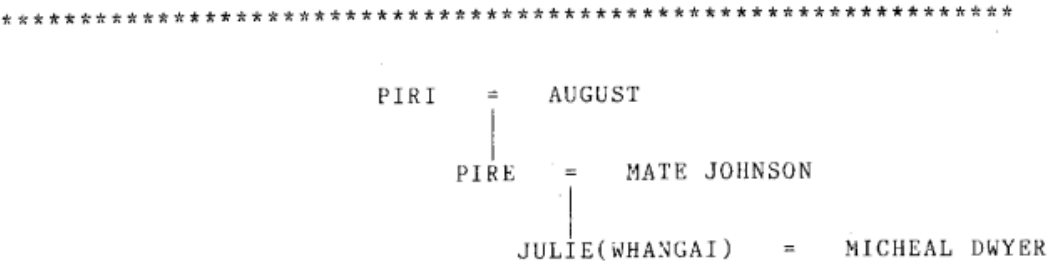
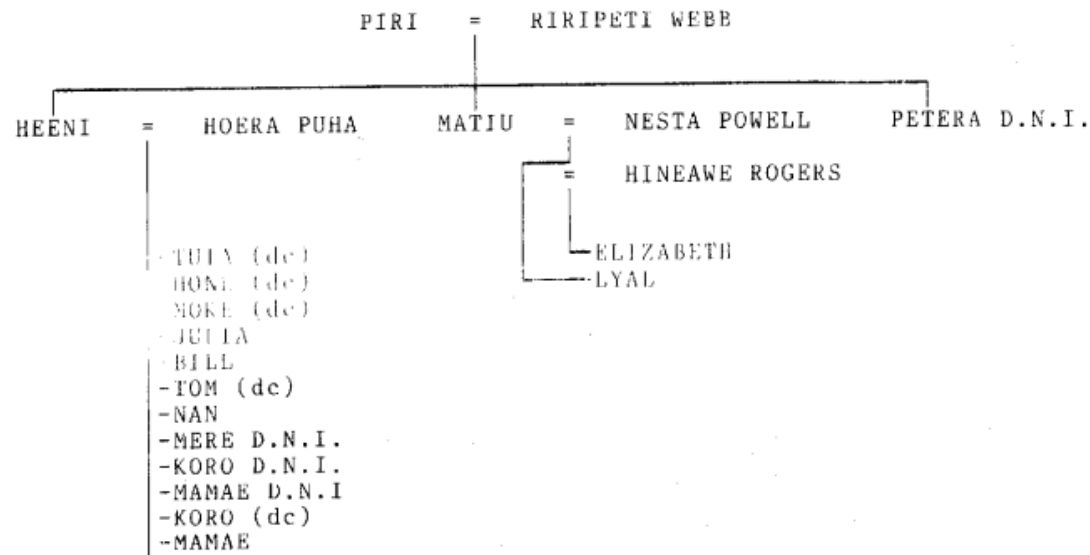


13. The following whakapapa was included as page 10:





15. The following whakapapa was included as page 12:



Mere Rankin

16. The following documents refer to Abe Stewart or Aperahama Stewart and his relationship to Roha Stewart also known as Mere Rankin:

- (a) 1960 July 27 – Heni Puna – Letter to solicitors:

Te Kaha
July 27 1960

Potts and Hod 'son
Solicitors

Dear Sir,

As I have told Mrs.Darcy Rankin I cant I am sorry that my son and daughter has already got their sections theres no other to come in its only enough for the two sections and one of my have to come in in a very narrow space and by the way I want to know how much interest he have in the whole p'ce I gave Mrs.Rankin a section on in Te Kaha No.2. no one using it. The old man who abpt Mrs.Rankin has a very small interest hardly any to make a lot of troubles between myself. I am the shareholder and my I brother.

I am any way so
I remain

Yours faithfully
Mrs.H. PUHA

(b) 1940-1946 Archives – Person Record SJMGC

Person Record

Full Name	Stewart, Roha		
First Name	Roha	Last Name	Stewart
Role		Birth Date	10-7-32
Notes	ARCHIVES 88/47 NO. 7 1935 - 1960 - Government Pupils' Register ARCHIVES 88/44. No. 4. 1940 - 1946.		
June 2024 PastPerfect Conversion			
Custom			
Reg By	SJMGC		
Person Num	1,352.00		
Reg Date	05/06/2004		
Biographic Info	ARCHIVES 88/44. No. 4. 1940 - 1946. NAME : Roha Stewart. D.O.B. : 10-7-32 Age : 13 years. Living with Parents at Potaka, Hick's Bay. Father : Abe Stewart. Mother : Moengaroa Parapara. School/s attended : Potaka N. S. Religion : Catholic. Health : ? D.O.A. SJMGC : GVT. Scholar: 9th Feb., 1946. Address : Mr. A. Stewart, Potaka, Hick's Bay. ARCHIVES 88/47 NO7. 1935 - 1960. GVT REG NO. : 752. NAME : Roha Stewart. D.O.A. : 9-2-46 D.O.B.: 10-7-32. Parent/Guardian : Mr.A. Stewart, Potaka, Hick's Bay. Last school attended : Hick's Bay. Highest Class Before Entering this School : F.2. Classes in this school : F.3. Last day of attendance : Dec, 1949 Highest Standard for which Certificate has been issued : E.S.C. Destination : Training College, Ardmore.		

(c) 1987 June 07 – Succession letter to Aperahama Stewart's Remaining Shares:

R.D. 2.
Whakataane,
June 7th. 1987.

Refer: Orete No. 2.

Walter P. Rika,
Secretary,
Professional Chambers,
Elliot Street,
Opoitiki.

Dear Sir,

As advised in our last A.G.M.
I hereby make an application
for succession to the remaining shares
of Aperahama Tuari, who had asked to
gift his shares to myself.

Part of these shares were so
conveyanced through the court.
The Court information reads (Rotoma)
Opoitiki 36/53.

"I ask for an order under Sect. 213 vesting the
35,378 91 (8h) in Orete 2 of Aperahama Tuari
for my formally adopted daughter Mere Rankin.
as a gift value \$100 Court Order accept by
Court. Court believes that donor has made no other
gift within a year. Donor wishes to give any
remaining interest in Tekaha 2982. Court does
not believe he has any interest left."

Contrary to that, the list of owners notes
that there is 15,288 44 shares remaining
that is what I hereby apply for succession.

Yours faithfully,
Mrs. Mere Rankin

(d) 1994 May 27 – Letter to Waiariki LC 22 May 1994:

Dear Sir

I have just had some information through a search made by my son, about land that belonged to my father, through adoption, being put through your Court without any contact with me.

What is worse, is that the applicant was my own mother by birth, Miriama Robertson. My birth mother, Miriama Robertson did not marry my father Mark Stirling and at the age of 2 weeks I was adopted by Abe Tuari (name quoted in minutes) and his wife, Moengaroa, as their own child even to naming me as Mere Hone Pera Stewart and christening me in their church, the Catholic church, as Rohario.

I was told that Abe Tuari, also known as Aperahama / Abraham Stewart (Tuari being Maori for Stewart) was related to my mother Miriama, but there is no mention of her mother as Aperahama's sister on the Stewart family tree. Aperahama had a sister called Kaa and a brother called Tom and I see no mention made of Tom.

Aperahama and Moengaroa Stewart saw me through all my schooling and even sent me away to attend St. Joseph's Maori Girls' College in Greenmeadows then on to Ardmore Training College and until I graduated. In their later years they stayed with my husband Darcy and I then when my mother Moengaroa died, we cared for Papa Aperahama until he died in 1961. It was his wish that his shares in Orete Station were gifted over to me he also had a section for us at TeKaha No 2 B2. and wanted us to have lands that were his.

So when Miriama Robertson says she is a niece of Abe Tuari's she really is not sure of her facts and she did nothing for him except when she wanted some land. I can't believe that after 21 years she can pass me over as "just a whangai" and keep on applying for Papa Aperahama's land, knowing full well that I have children too.

I would like to bring to your attention the following minutes of an application through your Court that was accepted without question.

I not only need your advice but I wish to contest this and any other parcels of land that have been applied for by Miriama Robertson, belonging to my father, Aperahama Stewart.

Yours sincerely

Mere Hone Pera Rankin. (Rohario)

(e) 1994 May 27 – Letter to Waiariki LC 22 May 1994:

*Mere Rankin
125 River Road
Kawerau
Eastern Bay of Plenty*

9th January 1998

8/6

SLD : BM

The Registrar
Waiariki Maori Dist. Land Court
P.O. Box 3012
Rotorua

Dear Sir
Kia Ora koe e te "Incorporation Officer" S.L. Dodd.

I refer to your letter of 23 May 1995.

I also thank you for the advice you gave about succeeding to the remaining shares of my parents Aperahama Tuari /Abe Stewart or Tuari and Moengaroa Stewart.

In answer first to the Question of my parents leaving wills - No they did not; and to succession I do not know about anyone succeeding to their Orete No. 2 Incorporation Shares, but I have discovered that there have been some underhanded successions to both of their other assets without any reference to myself and another whangai ,Molly/ Moengaroa Stansfield (nee Houkamau).

I intend to apply for the Orete No. 2 Incorporation Shares of both my parents for both Molly and myself.

I also have other searches to carry out and it is with much disbelief that I find people are able to succeed to land without any reference to the children of the deceased (whether they be Informally adopted or not)

I do know that I was adopted by Aperahama and Moengaroa Stewart (who were related to my mother) from a week after birth (as often happened with new born in Maori families) and was registered by them as aStewart and throughout my childhood and single life I had remained so.

They had said that Molly and I would have all their lands when they passed on .

I held on to that belief and did not look into it being confirmed in writing and while I continued teaching and working to acknowledge what they had sacrificed to get me to where I was as well as caring for them when I married ; others were busy applying for their lands and assets.

Would you please advise me as to my succeeding to the shares of my parents as noted in the Orete No. 2 Incorporation. As previously stated , my father, Aperahama Stewart, gifted me some shares, which I have since, transferred to my children.
There still remain the rest of both their shares in Orete and these are what I wish to succeed to .

May I also please have some forms to transfer some more of the shares I have to other family members.

Yours sincerely
Mrs. Mere Rohario Rankin (nee Stewart)

(f) Birth certificate of Mere Rankin:

R.G. 104 NEW ZEALAND

**Certified Copy of Entry of Birth
in the Registrar-General's Office** No 17636

Registration at RAUKOKORE

Child (Te Tamaiti)	
1. Date of Birth (Te Ra i Whanau ai) -	10 JULY 1932
2. Place of Birth (Te Kainga i Whanau ai)	RAUKOKORE
3. Christian or first names (Ingoa Iriri) (If child stillborn, to be noted in this column) (Mehemea he tamaiti-mate-roto me whakaatu ki konei)	MEREHONEPERA
4. Sex (He Tane he Wahine ranei) (M. or F.)	FEMALE
Father (Papa)	
5. Name in full (Te katoa o tona ingoa)	-
6. Residence (Kainga)	-
7. Tribe (Iwi)	-
8. Description (Ahuatanga)	-
Mother (Whaea)	
9. Name in full (Te katoa o tona ingoa)	MIRIAMA NGAMAKA
10. Residence (Kainga)	RAUKOKORE
11. Tribe (Iwi)	WHANAU-A-PARARAKI
12. Description (Ahuatanga)	FULL MAORI
13. Name and Surname of child, if there has been any addition or alteration after registration of birth	-

Certified to be a true copy of an entry of birth in the records of the Registrar-General's office.

Given under the seal of the Registrar-General at Wellington.

the 10 day of JULY 19 81



Court Research

Aperahama's maternal side

17. Though not equivocal, the Court record provides indications as to their being a relationship between Waka Katae and Pou te Awa and Kararaina Tuari. The applicant's whakapapa (as set out in the Preliminary Report and Recommendation) records that Waka Hakena was the sister of Miriama Hakena and that Miriama Hakena was the mother of Kataraina Tuari, Pau te Awa and Aperahama Tuari.
18. The minutes and orders of 5 Te Kaha MB 341 dated 20 September 1922 record succession to Pou Awa and Kararaina Tuari in Iwiroa 3 and Iwiroa 8. Waka Katae provided the evidence at the hearing for both those succession matters. The successors for Pou Awa were her children being Nehunehu Weeti Katae f12 and Miriama Weeti Katae f8. The successors for Kararaina Tuari were Mere Robb f12 and Kataraina Robb f5. The trustee for Nehunehu Weeti Katae, Miriama Weeti Katae and Mere Robb was Weeti Katae (who is the husband of Waka Katae).
19. It is noted that Waka Hakena was appointed trustee of Pou Te Awa in the Iwiroa block upon the investigation of title on 8 September 1910. Pou Te Awa was recorded as f17. It is also noted that Pou Te Awa, Piri Tuari ma, Petera Tuari m8, Pire Tuari m3, Aperahama Tuari ma, Heni Tuari f16, Matiu Tuari m5, Tame Tuari ma and Waka Hakena each received 27 shares in Iwiroa. Kararaina Tuari received 17 shares.
20. At 26 Opotiki MB 260 dated 28 June 1928, Miriama Paora f12 and Monehu Pango f16 succeeded to Pou te Awa. Te Weeti Katae was appointed trustee.
21. At 29 Opotiki MB 6 dated 17 October 1935, Miriama Robertson also known as Miriama Paora succeeded to the interests of Nehunehu Weeti Katae also known as Monehu Pango as her sister.
22. The Court minute of 1983 Chief Judge MB 110-112 dated 31 October 1983, being an application by Miriama Robertson to amend the succession orders for Weeti Katae, provides information pertaining to Pau te Awa, Waka Katae and Miriama Robertson. A summary of the relevant information is as follows:
 - (a) Miriama Robertson's mother was Pou te Awa.
 - (b) Miriama Robertson was born on 24 October 1913.
 - (c) Pau te Awa was living with Weeti Katae and his wife, Waka Hakena.
 - (d) Pou te Awa was Waka Katae's niece.
 - (e) Waka Katae and Pou te Awa were from the Ngapuhi people.
 - (f) Pou te Awa died in 1919.
23. Succession to Waka Katae occurred at 32 Opotiki MB 273-274 dated 29 July 1951. Evidence was given by Ngamotu Tukaki and Miriama Robertson.
 - (a) The evidence given by Ngamotu Tukaki sets out:

...A descendant of the tipuna toihau (*illegible*) was a lay reader and went as a missionary to Ngapuhi. He had family there. Was killed either by (*illegible*) or the pakehas. I knew of Waka and put her in the title – I heard of the name Miriama too late to put them in – Waka left no will and no issue – only the one sister Miriama that I have ever heard of. Miriama is dead no will has descendants. I do not know their names.
 - (b) The evidence given by Miriama Robertson sets out:

The Miriama referred to was my mother's mother. She had:

Abe Stuart or Tuari	ma	1/3
Pau te Awa or Tuari	d	no will issue

Ka Robb d no will issue

Pau te Awa Tuari had:

Miriama Robertson fa

Monehu te Awa d no will no issue

Ka Robb had:

Mere Hati fa 1/9

Hemi Robb ma 1/9

Ka Robb II fa 1/9

Wiremu Robb d no will no issue

Mere Rankin

24. The document at 15(c) of this report quotes a portion of Court minute 36 Opotiki MB 53, which evidence given by Aperahama Tuari, and sets out:
- I ask for an order under sec 213 vesting the 35.37891 sh in Orete 2 of Aperahama Tuari in my formally adopted daughter Mere Rankin f as a gift value £100...
25. My reading of that portion of that Court minute varies and is as follows:
- I ask for an order under sec 213 vesting the 35.37891 sh in Orete 2 of Aperahama Tuari in my **in**formally adopted daughter Mere Rankin f as a gift value £100... (emphasis added)
26. Document 15(f), the birth certificate for Mere Rankin that issued on 10 July 1981 only records Miriama Ngamaka (her birth mother). It does not record Aperahama Tauri or Stewart nor Moengaroa Stewart as her parents. A search of the Birth, Death, and Marriage Historical Records website² based on the information available produced the following result:

<u>Registration Number</u>	<u>Family Name</u>	<u>Given Name(s)</u>	<u>Mother's Given Name(s)</u>	<u>Father's Given Name(s)</u>	<u>Still Birth</u>
1932/27334	Ngamaka	Merehonepera	Miriama	NR	- Order Product

² <https://www.bdmhistoricalrecords.dia.govt.nz/>.

Legislation

27. Part III of the Births and Deaths Registrations Act 1951 sets out the following:

PART III

REGISTRATION OF ADOPTIONS

Registration of
adoptions.
1924, No. 13,
s. 27
1943, No. 20,
s. 2
See Reprint
of Statutes,
Vol. III,
p. 1073

21. (1) Where an order of adoption is made under Part III of the Infants Act 1908, the Registrar of the Court by which the order was made shall forthwith send to the Registrar-General notice setting forth the following particulars so far as they are known to the Court:—

- (a) The full name of the child as before the making of the order:
- (b) The date and place of birth of the child:
- (c) The sex of the child:
- (d) The names of the natural or last preceding adopting parents of the child:
- (e) The name or names and the occupation and address of the adopting parent or adopting parents:
- (f) The name of the Magistrate by whom the order of adoption was made, and the date of the order:
- (g) Such other particulars as may be required by the Registrar-General.

(2) On receipt of the particulars referred to in subsection one of this section the Registrar-General shall, if the duplicate of the entry as to the birth of the child has been transmitted to him pursuant to section eight of this Act, forthwith note and sign on the duplicate a memorial in the form No. 3 in the First Schedule to this Act.

(3) The Registrar-General shall in every case forthwith send to the Registrar by whom the birth was registered a copy of the notice received by him from the Registrar of the Court; and the Registrar by whom the birth was registered shall forthwith note and sign on the original entry and on any subsequent re-registration entry as to the birth of the child, and on the duplicate of any such entry in cases where the duplicate has not been transmitted to the Registrar-General, a memorial in the form referred to in subsection two of this section; and shall also re-register, in duplicate, particulars as to the birth of the child, substituting the name conferred by adoption for the name of the child prior to adoption, and recording the name, address, and description of each adopting parent in substitution for the particulars as to the natural or last adopting parents.

(4) The duplicate of the re-registration entry shall be transmitted to the Registrar-General as if it were a duplicate of an entry made pursuant to section seven of this Act.

(5) In any case where the birth of the adopted child has not been registered in New Zealand, the Registrar-General, upon being satisfied as to the correctness of the information supplied to him as to the date and place of birth of the child, shall send a copy of the notice received by him under subsection one of this section to the Registrar at Wellington, who shall register particulars as to the birth of the child in accordance with subsection three of this section.

(6) Where a copy of the entry as to the birth of any child to which this section relates is required for any purpose, the Registrar-General or the Registrar, as the case may be, shall supply a copy of the last entry made pursuant to subsection three of this section instead of a copy of any former entry, unless the applicant certifies, and the Registrar-General or the Registrar is satisfied, that the particulars recorded in the original or any former entry are material for the purpose for which the copy is required.

(7) No person shall be permitted to inspect any such original or former entry, unless that person certifies, and the Registrar-General or the Registrar is satisfied, that the particulars recorded in the original or former entry are material for the purpose for which the inspection is required.

22. (1) Where an adoption order is made under Part III of the Infants Act 1908 for the adoption of a Maori child, the re-registration of the birth of the child shall be effected in accordance with section twenty-one of this Act, and the provisions of that section, as far as they are applicable and with the necessary modifications, shall apply in all respects as if the child were a child born of European parents.

Adoption of
Maori children.
See Reprint
of Statutes,
Vol. III,
p. 1073

See Reprint
of Statutes,
Vol. VI, p. 179

(2) Where an adoption order is made pursuant to Part IX of the Maori Land Act 1931 in respect of a child of Maori descent who is not a Maori, re-registration of the birth of the child shall be effected in accordance with regulations under this Act for the time being in force relating to the registration of adoptions of Maoris adopted under the Maori Land Act 1931, and the provisions of any such regulations, as far as they are applicable and with the necessary modifications, shall apply as if the child were a Maori.

24. The foregoing provisions of this Part of this Act relating to the registration of particulars as to adopted children shall apply in the case of children in respect of whom orders of adoption under Part III of the Infants Act 1908, or under the Maori Land Act 1931, or the corresponding provisions of any former Acts, were made at any time before the commencement of this Act, if the Registrar-General is satisfied as to the truth of the particulars required to be registered.

Provisions of
this Part to
apply to
adoptions prior
to
commencement
of Act.
1924, No. 13,
s. 27 (6)
See Reprint
of Statutes,
Vol. III, p. 1073

28. Section 116 of the Māori Affairs Act 1953 as at 1982 and 1984 set out the following:

[1] Except as otherwise expressly provided in this Act, the persons entitled on the complete or partial intestacy of a Maori [who has died before the first day of April, nineteen hundred and sixty-eight] to succeed to his intestate estate, whether real or personal, and the shares in which they are so entitled, shall, so far as the estate consists of property other than beneficial freehold interests in Maori land ... , be determined in the same manner as if he were a European and as if all the persons living at the death of the intestate who, if they had then attained the age of twenty-one years, would take an absolutely vested interest in any part of the estate, had then attained that age:

Provided that the right of any person to succeed to any property in accordance with this subsection shall not be affected by the fact that he or any person through whom his claim is derived is or was illegitimate.

[2] Notwithstanding that all or any of the persons entitled in accordance with subsection one hereof to succeed to any part of an intestate estate may not in fact have attained the age of twenty-one years at the death of the intestate, they shall take an absolutely vested interest in the estate in accordance with their several shares, and the estate shall be distributed accordingly.

[3] Except as otherwise expressly provided in this Act, the persons entitled on the complete or partial intestacy of a Maori or the descendant of a Maori [who has died before the first day of April, nineteen hundred and sixty-eight] to succeed to his intestate estate so far as it consists of beneficial freehold interests in Maori land, and the shares in which they are so entitled, shall be determined by the Court in accordance with Maori custom.

[4] Repealed.

[5] Where, in the administration of the intestate estate of any person, any conflict arises between this Act and the [Administration Act 1969], the rules for the distribution of the estate prescribed by this Act shall prevail.

It is noted that the Māori Affairs Act 1953 did not specifically make provision for the recognition of whāngai.

Conclusions

Aperahama Tuari's maternal side

29. The evidence provided by the applicants recording Aperahama Tuari's mother as Miriama Hakena and his siblings as Pau Te Awa and Kataraina Tauri is supported by the record of the Court in various Court minutes, orders, and other Court documents and upon evidence given by various sources.
30. Though not equivocal as to these not existing, information that illustrates a direct connection between Aperahama Tuari and the persons recorded in the whakapapa provided by Betty Dunn has not been able to be located in the Court record. With respect to Tom, the only causal link located is a Tame Tuari ma being awarded the same number of shares as Pou Te Awa, Piri Tuari ma, Petera Tuari m8, Pire Tuari m3, Aperahama Tuari ma, Heni Tuari f16, Matiu Tuari m5, ma and Waka Hakena in Iwiroa. No information has been able to be located in the Court record with regard to Moeahi being the mother of Aperahama.

Mere Rankin

31. If the Court agrees with my reading of 36 Opotiki MB 53, the evidence from Aperahama Tuari wherein it states “...my *informally adopted daughter Mere Rankin*...” indicates that Mere Rankin was not legally adopted by Aperahama Tuari.
32. The provisions of Part III of the Births and Deaths Registration Act 1951 when viewed against the birth certificate of Mere Rankin supplied and the search results from the Births, Deaths & Marriages Online historical search also support that Mere Rankin was not legally adopted by Aperahama Tuari.
33. It is also noted that the determination of persons entitled to Māori land on intestacy of a Māori who died before the first day of April 1968 was in accordance with section 116(3) of the Māori Affairs Act 1953.

Ko te hātepe ture o te tono nei
Procedural history

[4] This matter was heard on 27 March 2024 where the application was adjourned for either an update or a Registrar's report.³

[5] The Report and Recommendation dated 8 May 2024 and notice of hearing were sent to the applicants and interested parties on 9 May 2024.

[6] On 19 June 2024 the matter was called up again.⁴ The application was adjourned for parties to file any further information or evidence with the case manager within four weeks.

[7] On 12 September 2024 a minute was issued from the Chief Judge.⁵ It noted that further information and documentation were received from Betty Dunn on behalf of the whānau of Mere Rankin dated 11 July 2024. Upon review of the information provided, the case manager sought further time to conduct further research.

[8] On 26 September 2024, at the next hearing the case manager advised the Court that the applicant sought an adjournment for further research to be completed. The matter was stood down and adjourned for a sitting in December 2024.⁶

[9] A Supplementary Report (dated 13 November 2024), notice of hearing and a copy of the draft submission were sent to parties on 13 November 2024. The following response

³ 2024 Chief Judge MB 506-511.

⁴ 2024 Chief Judge's MB 1172-1185.

⁵ 2024 Chief Judge's MB 1190-1191.

⁶ 2024 Chief Judge's MB 1718-1719.

was received via email dated 27 November 2024 from Marice Richardson on behalf of the Matiu Stewart Whānau Trust:

We have read the report of the Deputy Registrar and acknowledge that the law at the time the applications were heard had been applied correctly and, in our view, should not be reviewed today without compelling evidence as to the contrary why those decisions should be changed.

[10] On 18 December 2024 the matter was heard again.⁷ The applicants sought more time to provide a written response to the Supplementary Report. The application was adjourned to a sitting in March 2025.

[11] On 13 March 2025, the Court had not received any responses relating to the Supplementary Report or draft submission.⁸ However, the Court was notified of the sudden passing of co-applicant Niwa Nuri. Out of respect for the whānau, the application was adjourned to the next available sitting of the Chief Judge hearings.

[12] A response was received from Betty Dunn via email dated 12 March 2025, which is partially reproduced as follows:

In our opinion the Whakapapa for Piri Tuari, as we know it, has been set out as provided in Schedule 2 on pages 6 to 8 of 20.

We have also recently found documentation in regard to Te Kaha 29B 2B and Orete No.2 Block regarding shareholdings of Aperahama Stewart. We have attached this as admissible evidence.”

- (1) Vesting order – Transfer of 4.54320 shares to Darcy Rankin
- (2) Vesting order – Transfer of Te Kaha 29b2B2 from Darcy Rankin to Betty and David Rankin
- (3) Partition order – 7 Owners
- (4) Vesting order – Transfer of 35.37891 shares from Aperahama Tuari to Mere Rankin

[13] This information was sent to affected parties via post, dated 23 April 2025 and via email date 24 April 2025, along with notice of hearing and a copy of the draft submission. An email dated 1 May 2025 was received from Marice Richardson

⁷ 2025 Chief Judge's MB 281-316.

⁸ 2025 Chief Judge's MB 781.

advising that he and Rachel Richardson would not be attending the hearing and would like the following response submitted to the Court:

Because of the time lapse and the reasons why persons may or have may not have been included in some blocks and not others is not now known as the persons are deceased. Accordingly, we agree to abide by the decision of the Court.

[14] On 9 June 2025 a further hearing was held.⁹ Ranea Nuri was not present at the hearing. The Court was advised Ranea had not responded to requests or correspondence from the case manager. Betty Dunn was present with her brother David Rankin. Mere Rankin was their mother.

[15] Given the length of time this matter has been before the Court, the application was adjourned to Chambers for a reserved judgment to issue as soon as possible.

Ngā Ture The Law

[16] The Chief Judge's jurisdiction to amend or cancel an order of the Māori Land Court is set out in s 44(1) of Te Ture Whenua Māori Act 1993 (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.

[17] In *Ashwell – Rawinia or Lavinia Ashwell (nee Russell)*, the principles to be applied in determining such applications made pursuant to s 45 were listed as follows:¹⁰

(a) When considering s 45 applications, the Chief Judge needs to review the evidence given at the original hearing and weigh it against the evidence provided by the applicants (and any evidence in opposition);

⁹ 2025 Chief Judge's MB 861-865.

¹⁰ *Ashwell – Rawinia or Lavinia Ashwell (nee Russell)* [2009] Chief Judge's MB 209 (2009 CJ 209).

- (b) Section 45 applications are not to be treated as a rehearing of the original applications;
- (c) 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;
- (d) 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;
- (e) The burden of proof is on the applicant to rebut the two presumptions above; and
- (f) 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 s 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.

[18] 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.

[19] 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.¹¹ This means that the applicant must establish on the balance of probabilities that there was a mistake or omission.

[20] The Court of Appeal has confirmed that the power under s 44(1) falls into two parts:¹²

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

Kōrerorero

Discussion

[21] 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?

[22] With respect to Piri Tuari the applicants did not provide sufficient evidence to demonstrate on the balance of probabilities that an error, mistake or omission was made in the presentation of facts to the Court in 1915-1916. The research of the case manager indicates that Pau-te-awa Tuari and Kataraina Tuari were half-sisters to the person identified as Piri Tuari's successor – namely Aperahama Tuari. They shared the same mother – Miriama Hakena. However, the applicants produced no independent evidence that Piri was the father of Pau-te-awa Tuari and Kataraina Tuari. Therefore, I find that the applicants have failed to demonstrate on the balance of probabilities that there was a mistake, error or omission in the manner in which the facts were presented to the Court.

¹¹ *Tau v Nga Whanau O Morven & Glenavy – Waihao 903 Section IX Block* [2010] Māori Appellate Court MB 167 (2010 APPEAL 167).

¹² *Inia v Julian* [2020] NZCA 423 at [10].

[23] Turning to the succession orders to Aperahama Tuari's Māori land interests, the research of the case manager supports the position of the applicants that Pau-te-awa Tuari and Kataraina Tuari ought to have been included in all succession orders concerning any shares Aperahama held derived from their mother. I find there was a mistake, error or omission in the presentation of facts to the Court relating to succession to Aperahama Tuari.

[24] Although not originally part of the application, due to the evidence produced by Betty Dunn, the case manager considered whether there was an error with respect to Mere Rankin. She appears to have been a whāngai of Aperahama Tuari. The law at the time did not permit whāngai to succeed. The letter reproduced in the Supplementary Report from Mere Rankin to Mr Rika dated 7 June 1987, incorrectly quotes the Court's Minute (36 Ōpotiki Minute Book 53) referring to her as formally adopted. In fact, examination of that minute refers to her as Aperahama's informally adopted daughter. No formal record of adoption has been produced. Therefore, I find that there was no mistake, error or omission in the manner in which the facts were presented to the Court with respect to Mere Rankin.

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

[25] The only error in the Court record relates to the succession to the land interests of Aperahama Tuari. After taking into account the Preamble, ss 2 and 17 of Te Ture Whenua Māori Act 1993, I consider that it is necessary in the interests of justice to correct the error.

Kupu whakataunga me ngā ōta *Decision*

[26] Therefore, I make the following orders:

- (1) With regard to the succession orders relating to Piri Tuari at 4 Te Kaha MB 274 and 4 Te Kaha MB 371-372, this portion of the application is to be dismissed as an error has not been established.
- (2) With regard to the succession orders relating to Aperahama Tuari at 130 Gisborne MB 142 dated 4 April 1989 and 87 Wairoa MB 71 dated 30 October 1989, I make an order pursuant to s 44(1) of Te Ture Whenua Māori Act 1993 amending the orders complained of by:

- (i) With respect to the interests of Aperahama Tuari in Te Kaha 29B 2B2, adding Pau-te-awa Tuari and Kataraina Tuari as successors to a 1/5th each and amending the proportion received by Heeni Tuari or Puha, Matiu Tuari or Puha and Pire Tuari to 1/5th.
- (ii) With respect to 3.9333 (of the 4.72) shares of Aperahama Tuari in Iwiroa 9, allocating 1/5th Pau-te-awa Tuari, Kataraina Tuari, Heeni Tuari or Puha, Matiu Tuari or Puha and Pire Tuari each.

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

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

I whakapuaki i te 4.00 pm i Te Whanganui-a-Tara, tekau mā rima o ngā rā o Hepetema i te tau 2025.

Pronounced at 4.00 pm in Wellington on this 15th day of September 2025.

C L Fox
CHIEF JUDGE