

I TE KOOTI PĪRA MĀORI O AOTEAROA
I TE ROHE O TE TAITOKERAU
In the Māori Appellate Court of New Zealand
Taitokerau District

AP-20250000002499
Appeal 2025/6

WĀHANGA <i>Under</i>	Section 56(1)(g), Te Ture Whenua Māori Act 1993
MŌ TE TAKE <i>In the matter of</i>	Te Tii B3 Block
I WAENGA I A <i>Between</i>	HAPETA RAMEKA-KERE Kaitono pira <i>Appellant</i>
ME <i>And</i>	GEORGE RILEY, MARYANNE BAKER, EMMA HEPI, MARSHA DAVIS, RANGI TAWHIO, WHATI RAMEKA, AND WIMUTU TE WHIU AS TRUSTEES OF TE TII (WAITANGI) B3 AHU WHENUA TRUST Ngā Kaiurupare pira <i>Respondents</i>

Nohoanga: <i>Hearing</i>	14 August 2025, 2025 Māori Appellate Court MB 384-400 (Heard at Whangārei)
Kooti: <i>Court</i>	Deputy Chief Judge C T Coxhead (Presiding) Judge T M Wara Judge R P Mullins
Kanohi kitea: <i>Appearances</i>	H Rameka-Kere in person M Dalton-Mill for Respondents
Whakataunga: <i>Judgment date</i>	17 November 2025

TE WHAKATAUNGA Ā TE KOOTI HĀNGAI KI TE UTU RŌIA
Judgment of the Court as to Costs

Hei tīmatanga kōrero*Introduction*

[1] We heard Mr Rameka-Kere's appeal on 14 August 2025.¹

[2] We found that while the lower Court erred in finding that it did not have jurisdiction to determine the application for an injunction, we agreed with the outcome of that decision, that it was not appropriate based on the merits of the case that an interim injunction be granted. We therefore dismissed the appeal.²

[3] The respondents in their submission before us noted that they would seek costs.

[4] We allowed both parties, ten (10) working days to file their submissions regarding costs.

Ngā kōrero a te kaitono pīra*Submissions for the appellant*

[5] The appellant filed what we take to be submissions by email on 19 August 2025. The appellant's email states:

- (1)- attention) all interested party's
- (2)- (subject)-applicants response to tetiib3's application, for costs
- (A)- hapeta directs
- that)-tetiiib3 address this civil claim, along with
- That)- their other Civil claims in accordance with tikanga
- (3)-Along with other excluded evidence
- (3)- at a "rehearing " applied for in the near future

[6] We have much difficulty in assessing the appellants position as to costs. It is unclear whether he opposes costs being granted.

Ngā kōrero a ngā kaiurupare pīra*Submissions for the respondents*

[7] The respondents filed their submissions on 27 August 2025.

¹ 2025 Māori Appellate Court MB 384-400 (2025 APPEAL 384).

² 2025 Māori Appellate Court MB 384-400 (2025 APPEAL 384) at [27].

[8] The respondents asked the Court to award costs to them in the amount of \$6,000.00. They note that this award is significantly less than the respondents' actual costs, but it recognises the significant costs incurred while defending the prolonged proceeding.

[9] The basis for the respondents seeking costs are:

- (a) The respondents were a successful party in the proceedings as the Court dismissed the appeal on its merits.
- (b) The respondents seek a portion of actual legal costs.
- (c) The award of costs recognises the legal costs and related costs incurred for defending this proceeding over the past year against the appellant and their associates.
- (d) The authorities cited in *Pokere v Bodger* suggests a reasonable award to the successful party will be in the range of \$5,000.00 to \$15,000.00.³
- (e) Given the length of the hearing and the circumstances the appropriate award here would sit at the lower end of that spectrum.
- (f) Invoices as to total costs incurred exceed \$15,500.00. An award of \$6,000.00 is a reasonable contribution to recognise the cost of defending Mr Rameka, Ms Napier and Mr Rameka's chain of appeals, rehearings and stay applications from August 2024 until August 2025.
- (g) The appellant's appeal prolonged a dispute that should have been resolved long ago.
- (h) The respondents acknowledge that this Court seeks to facilitate amicable relationships between whanaunga. However, these hononga had been strained by the proceedings. As in *Brooking v Andrews* the role of the Court to facilitate

³ *Pokere v Bodger - Ōuri 1A3* (2023) 466 Aotea MB 120 (466 AOT 120).

amicable relationships should be balanced against the significant costs that the respondents have been put to in defending these proceedings.⁴

He aha ngā mātāpono o te ture?

What legal principles apply?

[10] Ordinarily, costs follow the event, and the successful party should be awarded a reasonable contribution towards the costs. However, the Court is always aware of the whakapapa relationships that ordinarily exist between parties and the impact that an award of costs may have on whanaungatanga. The Court must take this into account when deciding whether costs are warranted and if so, the extent of the award.

[11] The relevant principles to be applied in considering cost awards have been set out in *Trustees of Horina Nepia and Te Hiwi Piahana Whānau Trust v Ngāti Tukorehe Tribal Committee and Tahamatā Incorporation* a decision issued by Judge Harvey (as he then was) which outlines the following:⁵

[11] The principal authorities concerning costs are considered in *Nicholls v Nicholls – Part Papaaroha 6B Block*. Those decisions include *Riddiford v Te Whaiti*, *Manuirirangi v Paraninihi ki Waitotara Incorporation* and *De Loree v Mokomoko and Ors – Hiwarau C5* and they identify the following principles:

- (a) the Court has an unlimited discretion as to costs;
- (b) Costs follow the event and a successful party should be awarded a reasonable contribution to the costs that were actually and reasonably occurred;
- (c) the Court has an important role in attempting to facilitate amicable relationships between parties who are invariably connected by whakapapa to both the land and each other and on occasion that aim will be frustrated by an award of costs. Even so, where litigation has been pursued in accordance with conventional principles then the starting point will be that costs are appropriate;
- (d) if a party has acted unreasonably – for instance by pursuing a wholly unmeritorious and hopeless claim or defence – a more liberal award may well be made in the discretion of the judge, but there is no invariable practice;
- (e) an award of costs at a level of 80% was warranted in the *Riddiford* case due to the difficult nature of the arguments, their lack of substance, the unsuccessful party's lack of realism, the parties' legal situation, the

⁴ *Brooking v Andrews – Waipapa 9* (2022) 273 Waiariki MB 35 (2022 WAR 35) at [34].

⁵ *Trustees of Horina Nepia and Te Hiwi Piahana Whānau Trust v Ngāti Tukorehe Tribal Committee and Tahamatā Incorporation* (2014) 319 Aotea MB 238 (319 AOT 238).

degree of success achieved by the respondent and the time required for effective preparation.

- (f) there is no basis for departing the ordinary rules where the proceedings were difficult and hard fought, and where the applicants succeeded in the face of serious and concerted opposition; and
- (g) where the unsuccessful party has not acted unreasonably it should not be penalised by having to bear the full party and party costs of his/her adversary as well as their own solicitor and client costs.

[12] We adopt this approach.

Whakataunga *Decision*

[13] The respondents were successful. The appeal was dismissed.⁶

[14] Clearly, in this situation the relationship between the parties has been strained over a long period of time. The parties do not appear to be in any amicable relationship. The award of costs will not impact that whanaungatanga between the parties. Declining an award of costs would not repair that whanaungatanga.

[15] Costs will be awarded.

[16] The respondents are seeking less than 60% of the actual legal costs incurred, which they say is a fair and reasonable contribution when measured against the actual costs incurred of over \$15,000.00.

[17] The appellant's appeal prolonged a dispute that should have been resolved long ago.

[18] Given the circumstances, of these prolonged proceedings, which has required the respondents to defend matters an award of \$6,000.00 is reasonable.

[19] We order Mr Hapeta Rameka-Kere to pay costs of \$6,000.00 to the respondents.

⁶ 2025 Māori Appellate Court MB 384-400 (2025 APPEAL 384) at [27].

I whakapuaki i te 10.00 am i Whangānui, tekau mā whitu o ngā rā o Noema i te tau 2025.
Pronounced at 10.00 am in Whangānui on Monday this 17th day of November 2025.

C T Coxhead (Presiding)
DEPUTY CHIEF JUDGE

T M Wara
JUDGE

R P Mullins
JUDGE

Hei tīmatanga kōrero*Introduction*

[1] We heard Mr Rameka's appeal on 15 August 2025.

[2] We found that while the lower Court erred in finding that it did not have jurisdiction to determine the application for an injunction, we agreed with the outcome of that decision, that it was no appropriate based on the merits of the case that an interim injunction be granted. We therefore dismissed the appeal in accordance with s 56(1)(g) of Te Ture Whenua Māori Act 1993.

[3] The respondent in their submission before us noted that they would seek costs.

[4] We therefore allowed both parties, ten (10) working days to file their submissions regarding costs.

[5] The respondents filed their submissions on 27 August 2025 and the appellant filed what we take to be submissions by email on 19 August 2025.

[6] The respondents asked the Court to award costs to them in the amount of \$6,000.00. They note that this award is significantly less than the respondents actual cost but it recognises the significant costs the respondents incurred while defending the prolonged proceeding.

[7] The basis of seeking cost is:

- (a) The respondent was a successful party in the proceedings as the Court dismissed the appeal on its merits.
- (b) The respondent seeks a portion of actual legal costs.
- (c) The award of costs recognise the legal costs and related costs incurred for defending this proceeding over the past year against the appellant and their associates.
- (d) The authority sighted in *Pokere v Bodger and others* suggest a reasonable award to the successful party will be in the range of 5 to \$15,000.00.

- (e) Given the length of the hearing and the circumstances the appropriate award here would sit at the lower end of that spectrum.
- (f) Invoices in total cost incurred exceed \$15,500.00. An award of \$6,000.00 is a reasonable contribution to recognise the cost of defending Mr Rameka, Ms Napier and Mr Rameka's chain of appeals, rehearings and stay applications from August 2024 until August 2025.
- (g) The appellants appeal prolonged a dispute that should have been resolved a long ago.
- (h) The respondent acknowledges that this Court seeks to facilitate amicable relationships between whanaunga. However, these hononga had been strained by the proceedings. As in *Brooking v Andrews* the role of the Court to facilitate amicable relationships should be balanced against the significant costs that the respondent has been put to in defending these proceedings.

[8] The appellant submits:

- (1)- attention) all interested party's
- (2)- (subject)-applicants response to tetiib3's application, for costs
- (A)- hapeta directs
- that)-tetiib3 address this civil claim, along with
- That)- their other Civil claims in accordance with tikanga
- (3)-Along with other excluded evidence
- (3)- at a "rehearing " applied for in the near future

[9] We have much difficulty in assessing the appellants position as to costs. It is unclear he opposes costs being granted.

Whakataunga *Decision*

[10] The Court has a discretion to make an award of costs. This discretion is unlimited.

[11] The Court firstly assesses whether an award of costs should be made and then if an award is to be made, there is an assessment as to quantum.

[12] The starting point for the Court is that costs follow the event. A successful party should be awarded a reasonable contribution to the costs that are actual and reasonably incurred.

[13] In this situation the respondents were successful. The appeal was discussed.

[14] Clearly, in this situation the relationship between the parties has been strained over a long period of time. The parties clearly do not appear to be in any amicable relationship, the award of costs will not impact that relationship and declining the award of costs would not repair that relationship.

[15] Costs will be awarded.

[16] As to quantum, the respondents are seeking less than 60% of the actual legal costs incurred.

[17] Given the circumstances, of these prolonged proceedings, which has required the respondents to defend matters an award of \$6,000.00 is reasonable.

[18] Ordinarily, costs follow the event, and the successful party should be awarded a reasonable contribution towards the costs. However, the Court is always aware of the whakapapa relationships that ordinarily exist between parties and the impact that an award of costs may have on whanaungatanga. The Court must take this into account when deciding whether costs are warranted and if so, the extent of the award.

[19] The relevant principles to be applied in considering cost awards have been set out in *Trustees of Horina Nepia and Te Hiwi Piahana Whānau Trust v Ngāti Tukorehe Tribal Committee and Tahamatā Incorporation*, a decision issued by Judge Harvey (as he was then) which outlines the following:

[11] The principal authorities concerning costs are considered in *Nicholls v Nicholls* – Part Papaaroha 6B Block. Those decisions include *Riddiford v Te Whaiti*, *Manuirirangi v Paraninihi ki Waitotara Incorporation* and *De Loree v Mokomoko and Ors* – Hiwarau C5 and they identify the following principles:

- (a) the Court has an unlimited discretion as to costs;
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- (c) the Court has an important role in attempting to facilitate amicable relationships between parties who are invariably connected by whakapapa

to both the land and each other and on occasion that aim will be frustrated by an award of costs. Even so, where litigation has been pursued in accordance with conventional principles then the starting point will be that costs are appropriate;

- (d) if a party has acted unreasonably – for instance by pursuing a wholly unmeritorious and hopeless claim or defence – a more liberal award may well be made in the discretion of the Judge, but there is no invariable practice;
- (e) an award of costs at a level of 80% was warranted in the Riddiford case due to the difficult nature of the arguments, their lack of substance, the unsuccessful party's lack of realism, the parties' legal situation, the degree of success achieved by the respondent and the time required for effective preparation;
- (f) there is no basis for departing the ordinary rules where the proceedings were difficult and hard fought, and where the applicants succeeded in the face of serious and concerted opposition; and
- (g) where the unsuccessful party has not acted unreasonably it should not be penalised by having to bear the full party and party costs of his/her adversary as well as their own solicitor and client costs.

[20] We adopt this approach.

[21] While acknowledging whanaungatanga and the relationship between them.

[22] We order Mr Hapeta Rameka to pay costs of \$6,000.00 to the respondent.

I whakapuaki i te XXX am/pm i Rotorua, te tuawhitu o ngā rā o Noema I te tau 2025
Pronounced at XXX am/pm in Rotorua on Friday this 7th day of November 2025.

\$(signature)

C T Coxhead
DEPUTY CHIEF JUDGE(Presiding)

T M Wara
JUDGE

R P Mullins
JUDGE