

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

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

AP-20250000006293

AP-20250000006294

AP-20250000006295

WEHENGĀ
Under

Sections 18(1)(a), 135, 136 and 289 of Te Ture
Whenua Māori Act 1993

MŌ TE TAKE
In the matter of

Ohau No 3 Subdivision No 6B

NĀ
By

SHONA SIEVERS
Te Kaitono
Applicant

Kōtitanga: 2 September 2025, 516 Aotea MB 131-141
Hearing 2 March 2026, 530 Aotea MB 174-190
(Heard at Levin)

Kanohi kitea: L Watson for Applicant
Appearances

Whakataunga: 14 May 2026
Judgment date

TE WHAKATAUNGA A KAIWHAKAWĀ A M THOMAS
Decision of Judge A M Thomas

He kupu whakataki

[1] Nā Shona Sievers i tuku ki te Kooti ngā tono e toru e hāngai pū nei ki te poraka whenua e kīa nei ko Ohau No 3 Subdivision No 6B (“te poraka”), ko ia hoki te kaipupuri whenua anahe o te poraka whai muri i te rironga atu o tana hoa tāne a Graeme i te tau 2006. I tana tuku mai i tēnei tono, i mea mai a Ms Sievers, kāhore ōna whakapapa Māori.

[2] E hiahia ana Ms Sievers kia whakatauhia e te Kooti te take o tōna puritanga mana mō te whare e noho nei ki runga i te poraka (“te tono whare”), te take o te wāwāhi i te poraka kia toru ngā taitara, te take anō hoki o te panoni i te tūnga o tētahi o aua poraka kia whenua tianara.

[3] I te kimi te rōia a Ms Sievers i tētahi Kōtitinga tōmua, i ētahi whakapuakanga tōmua anō hoki e ai ki Tikanga 13.3 o Ngā Tikanga o te Kooti Whenua Māori 2011 (“ngā Tikanga”),¹ ko aua tikanga hoki e pā

Introduction

[1] Shona Sievers has filed three applications with the Court that all concern the block known as Ohau No 3 Subdivision No 6B (“the block”) of which she is the sole owner since the passing of her husband Graeme Sievers in 2006. At the time of filing the application, Ms Sievers noted she did not have whakapapa Māori.

[2] Ms Sievers wants the Court to determine the ownership of the dwelling on the block in her favour, partition the block into three separate titles and change the status of one of those blocks to general land.

[3] Counsel for Ms Sievers sought a preliminary hearing and determinations as per Rule 13.3 of the Māori Land Court Rules 2011 (“the Rules”),¹ which would affect both the outcome of the partition

¹ **13.3 Preliminary hearing**

- (1) A Judge may direct a preliminary hearing of an application for a partition order to consider—
 - (a) the requirements for making the order set out in sections 286(1) and 288(2) and (4) of the Act; and
 - (b) any other issues.
- (2) The Court may dispense with the filing of a valuation required by rule 13.1(1)(c)(iii) or any subdivision consent required by section 303(1) of the Act until after it has determined the issues considered in the preliminary hearing.
- (3) The Court may, at the conclusion of a preliminary hearing, issue a preliminary determination.
- (4) This rule does not preclude an applicant from seeking the determination of the application without a preliminary hearing.

nei ki te tono kia wāwāhihia te poraka me te tono kia panonitia te tūnga.

application and change of status application.

[4] I te 2 o Māehe 2026, i tū ai tētahi Kōtitanga tōmua kia whakaarohia ā Ms Sievers take me ērā i rārangitia ai ki Tikanga 13.3(1) o ngā Tikanga.

[4] A preliminary hearing was held on 2 March 2026 to consider matters raised by Ms Sievers and the matters as set out in Rule 13.3(1) of the Rules.

[5] Mā tēnei whakataunga e tuku ngā whakapuakanga e kimihia nei me te whakatau i te take o te tono whare.

[5] This decision provides the determinations sought and makes a decision on the dwelling application.

[6] Ko ngā take mō te whakapuakanga, e pēnei nei:

[6] The issues for determination are as follows:

(a) āe rānei, e āhei ana a Ms Sievers, he pākehā, ki te wāwāhi i te poraka; ka mutu

(a) whether Ms Sievers, being a non-Māori, can partition the block; and

(b) āe rānei, e āhei ana a Ms Sievers, te kaupupuri whenua anahe o te poraka, ki te wāwāhi i te poraka; ka mutu

(b) whether Ms Sievers, as sole owner of the block, can partition the block; and

(c) kei a wai te puritanga mana o te whare e noho nei ki runga i te poraka?

(c) who is the owner of the dwelling situated on the block?

Āe rānei, e āhei ana tētahi pākehā ki te wāwāhi i te poraka whenua Māori herekore?

Can a non-Māori partition a block that is Māori freehold land?

[7] Ko ngā wehenga matua e rua o Te Ture Whenua Māori Act 1993 e whai take

[7] The two main sections of Te Ture Whenua Māori Act 1993 that are relevant for

nei ki tēnei whakapuakanga, ko wehenga 286 me wehenga 287, e tuku ai i te aronga matua o Wāhanga 14 me te mana ā-ture o ngā Kōti, e pēnei nei:

the purposes of this determination are sections 286 and 287 which set out the principal purpose of Part 14 and the jurisdiction of the Courts, as follows:

286 Purpose of this Part

(1) The principal purpose of this Part is to facilitate the use and occupation by the owners of land owned by Maori by rationalising particular landholdings and providing access or additional or improved access to the land.

(2) Where it is satisfied that to do so would achieve the principal purpose of this Part, the court may make partition orders, amalgamation orders, and aggregation orders, grant easements, and lay out roadways in accordance with the provisions of this Part.

287 Jurisdiction of courts

(1) Subject to subsection (3), the Maori Land Court shall have exclusive jurisdiction to make partition orders, amalgamation orders, aggregation orders, and exchange orders in respect of Maori land, and to grant easements and lay out roadways over Maori land.

(2) The jurisdiction conferred on the Maori Land Court by this Part shall be discretionary, and, without limiting that discretion, the court may refuse to exercise that discretion in any case if it is not satisfied that to do so in the manner sought would achieve the principal purpose of this Part.

(3) Nothing in this section shall apply in respect of any Maori reserve.

(4) Except as provided in subsection (1), nothing in this Part shall limit or affect the jurisdiction of the High Court.

[8] Ahakoa te āhua nei e kī nei a w 286 ka āhei te kaupupuri whenua māori anake ki te wāwahi whenua, manohi anō e kī anahe nei a w 287 mō te whenua Māori, kaua mō te whakapapa o te kaupupuri whenua o te whenua Māori herekore, hāunga a w 286(2) e kī nei me whakapuaki ngā ōta kia ū ki te kuapapa matua o tēnei Wāhanga.

[8] While the wording of s 286 envisages partition by only Māori landowners, s 287 speaks to Māori land in general and not the ethnicity of the owner of the Māori freehold land, save subsection 2 which states that orders should be made in a manner consistent with the principal purpose of this Part.

[9] E mea ana te rōia o Ms Sievers, ehara i te mea e whāiti ana te titiro a s 287

[9] Counsel for Ms Sievers submits section 287 is not limited to only Māori

ki ngā kaitono Māori anahe. Hei ko tāna, āe ka noho a s 286 hei wāhanga o tō te Kōti mana whakatau, engari ehara i te mea he aukatinga ia ki te whakahaeretanga o te tono.

[10] E māraakerake ana te kitea i ngā kēhi o mua,² kāhore ngā pākehā e aukatihia nei kia tuku tono mō tētahi wāwāhanga, ko te take kē, mā te Kōti e tuku whakapuakanga me te kī ake, āe rānei ka whakatutukihia te taupae ture kia tukua ngā ōta wāwāhanga e ai ki te aronga matua o te Ture.

Āe rānei, e āhei ana tētahi kaupupuri whenua kotahi te wāwāhi i te poraka whenua Māori herekore?

[11] I te tau 2006, i hoko ai a Ms Sievers rāua ko tana hoa rangatira, Graeme Sievers, i te poraka. I te tau 2019, i mate ai a Mr Sievers, nā kona kua noho a Ms Sievers hei kaupupuri whenua anahe o te poraka.

[12] I roto i ngā tau, ko ngā huarahi e whāia nei e te Kōti mō te take o te āheinga o te kaupupuri whenua kōtahi ki te wāwāhi i tētahi poraka, he rerekē. I ētahi horopaki, kua whakaaetia e te Kōti kia pērā, i ētahi atu horopaki, i mea atu te Kōti, me mātua

applicants. He acknowledges that section 286 is part of the exercise of the Court's discretion but is not fatal to the application.

[10] It is clear from previous case law,² that non-Māori are not prohibited from applying to partition, but whether or not they meet the threshold for partition orders to be granted, in line with the principal purpose of the Act, is a matter for determination by the Court.

Can a sole owner partition a block that is Māori freehold land?

[11] The block was purchased by Ms Sievers and her late husband, Graeme Sievers, in 2006. Mr Sievers passed away in 2019 and Ms Sievers became the sole owner of the block.

[12] To date, the approach taken by the Court as to whether a sole owner of Māori freehold land can partition a block has varied. There are examples where the Court has allowed this to occur and other examples where the court has first required

² *Morrison – Moteo Hapua Te Pirau 1C 4B* (2024) 113 Tākitimu MB 193 (113 TKT MB 193); and *Richards v Rangi – Part Kai Iwi 5E2 and Lot 1, 3 and 5 DP 8968* (2025) 499 Aotea MB 139 (499 AOT 139).

tuku ētahi hea o te poraka, tahi anahe te kaupupuri whenua, ki tangata kē atu, ka whakaae ana te wāwāhanga.

shares in a solely owned block to be transferred to other persons before partition is approved.

[13] E whakaae ana ahau ki te kōrero i roto i a *Mullins – Kaitoki No 2K Sec 1* me tā Kaiwhakawā Stone tahuri ki *Heta* me tana kī ake:³

[13] I adopt the reasoning in *Mullins – Kaitoki No 2K Sec 1* where Judge Stone considered *Heta* and notes:³

[8] *Heta* did not concern the partition of solely owned land. However, Judge Ambler's analysis remains apposite. For the purposes of the 1993 Act, “the concept of partition is not limited to ‘partition proper’ as applies at general law but allows for an unlimited array and combination of title orders that define separate parcels of land”. On this basis alone, the Court ought not refuse to partition a block that is solely owned simply because of the proposition at general law that partition requires co-owners. The idiosyncratic branch of partition law that applies in this Court does not ascribe to that general notion.

(citations omitted)

[14] Hei tāpiri noa:

[14] And further:

[13] The corollary is that allowing a sole owner of a Māori freehold land block to partition it further raises the spectre of future land sales. The argument is that breaking a block into parts makes it easier for some of it to be sold, including outside of the preferred class of alienee. This potential cannot be ignored. However, two points can be made in response. First, that risk exists anyway, because the block is already solely owned. Second, the statutory framework that governs partitions ensures that this potential is not ignored.

(citations omitted)

[15] E tautoko ana ahau i tā Kaiwhakawā Stone i kī ai, kei reira tonu te mōreareatanga mō te hoko atu ahakoa ka noho atu ko te kaupupuri whenua kotahi, maha kē atu rānei, ka mutu, e mea ana te Ture me tahuri te Kōti ki ngā take e pēnei ana mō ngā tono ka tae ki mua i a ia.

[15] I agree with Judge Stone that the risk of sale exists whether or not the block is solely owned, and the provisions of the Act ensure these matters are considered in applications that come before the Court.

³ *Mullins – Kaitoki No 2K Sec 1* (2025) 119 Tākitimu MB 50 (119 TKT 50).

[16] Mō ngā take i rārangitia rā ki runga, e mea ana ahau kāhore a Ms Sievers e aukatihia ana kia tuku tonono kia wāwāhi poraka ai nā runga anō i te take o tana tū hei kaupupuri whenua anahe o te poraka. E whakapuakitia ana i konei, ka āhei a Ms Sievers ki te tuku tonono kia wāwāhitia te poraka.

[16] For the reasons set out above, I do not consider Ms Sievers is prohibited from applying to partition simply because she is the sole owner of the block. I determine that Ms Sievers may apply to partition the block.

Kei a wai te puritanga mana o te whare e noho nei ki Ohau No 3 Subdivision No 6B?

Who owns the house on Ohau No 3 Subdivision No 6B?

Te ture

The law

[17] E pēnei ana ngā kupu a wehenga 18(1)(a) o te Ture:

[17] Section 18(1)(a) of the Act provides as follows:

18 General jurisdiction of court

(1) In addition to any jurisdiction specifically conferred on the court otherwise than by this section, the court shall have the following jurisdiction:

(a) to hear and determine any claim, whether at law or in equity, to the ownership or possession of Maori freehold land, or to any right, title, estate, or interest in any such land or in the proceeds of the alienation of any such right, title, estate, or interest

[18] Nō reira, ko te āhua o te mana ā-ture o te Kōti, he tuku whakapuakanga. Tērā pea ka tuku te Kōti i tētahi whakapuakanga e whakaū ana i tētahi mōtika kua puta kē, engari kāhore e āhei ana te hanga mai i ngā mōtika hou.⁴ Nō reira, e tika ana kia tirohia te hītoria o te

[18] The Court's jurisdiction is therefore declaratory in nature. The Court may declare existing ownership rights at law or in equity but cannot create new ownership rights.⁴ It is therefore necessary to turn to the history of the building in order to determine whether ownership rights exist.

⁴ Nga Uri a Maata Ngapo Charitable Trust v McLeod – Harataunga West 2B2A1 (2012) 49 Waikato Maniapoto MB 223 (49 WMN 223).

whare kia tika ai tā te whakapuaki, e ora ana kāhore e ora ana rānei ētahi mōtika.

Kōrerorero

[19] Hei toai noa i ngā kōrero o runga, i hoko a Ms Sievers me tana tāne, Graeme Sievers, i te poraka i te tau 2005. I taua wā, he whenua māraakerake te poraka. Whai muri i te matenga o tana hoa rangatira, ka noho ko Ms Sievers anahe te kaupupuri whenua.

[20] Whai muri i te hokonga, i timata a Graeme rāua ko Shona ki te whakatupu i te whenua, arā, te whakatū i te whare e mōhiotia nei i tēnei wā ko te kāinga o te whānau, te whare e noho nei a Ms Sievers i tēnei wā.

[21] Kua hangaia mai te whare ki ngā rākau māori i hurihia ai e Mr Sievers me āna tama, nā rāua hoki i tautoko tana whakatū i te whare.

[22] He hirahira ā-ngākau te whare ki a Ms Sievers me tana whānau. E tautoko ana a Kyle, te tama a Ms Sievers, kia tukuna ngā ōta e whakaaetia ana tā tana māmā tonono.

[23] E māraakerake ana te kitea, i hangaia mai tēnei whare me te aronga kia noho motuhake ia ki te whenua, kāhore

Discussion

[19] As noted above, the block was purchased by Ms Sievers and her late husband, Graeme Sievers, in 2005. At that time it was bare land. Following the passing of her husband, Ms Sievers is now the sole owner of the land.

[20] Following the purchase, Graeme and Shona began developing the land, which included the building of the current family home which Ms Sievers lives in today.

[21] The house is built of all natural timbers milled by Mr Sievers and his sons, who assisted in the building of the home.

[22] The house has special personal significance to Ms Sievers and her family. Ms Sievers' son, Kyle, supports orders being granted in his mother's favour.

[23] It is clear that the house was built with the expectation of permanent occupation, a removal (while not

hoki e tika ana tētahi hikinga (ahakoa kāhore tērā e whai take ana i tēnei kēhi) mai i te whenua nei, nō reira, he taputapu te whare e whai wāhi ana ki te poraka.

Whakataunga

[24] Mō ngā take e rārangitia nei ki runga, ka whakamanatia ngā ōta e ai ki wehenga 18(1)(a) o Te Ture Whenua Māori Act 1993, e whakapuakihia ana ko te whare me ōna hanganga tāpiri e tū nei ki Ohau No 3 Subdivision No 6B he rawa nō Shona Sievers me tōna kotahi e ai ki te ture me ngā āhuatanga o te mana tika.

[25] Ka whakamanatia ngā whakapuakanga e ai ki Tikanga 13.3 o Ngā Tikanga o te Kooti Whenua Māori 2011, e pēnei nei:

- (a) E āhei ana a Ms Sievers, he pākehā, ki te wāwāhi i te poraka; ka mutu
- (b) E āhei ana a Ms Sievers, te kaipupuri whenua anahe o te poraka, ki te wāwāhi i te poraka.

[26] Ahakoa taku whakatau, e āhei ana a Ms Sievers, he pākehā, he kaipupuri whenua kotahi hoki, te wāwāhi poraka, kāhore au e tuku whakatau ana ki te tono

considered in this case) of the house from the land would be inappropriate and is therefore a fixture forming part of the block.

Determinations and decision

[24] For the reasons set out above, orders are made pursuant to section 18(1)(a) of Te Ture Whenua Māori Act 1993 determining that the house and associated buildings situated on Ohau No 3 Subdivision No 6B are the sole and exclusive property of Shona Sievers in law and equity.

[25] Determinations are made pursuant to Rule 13.3 of the Māori Land Court Rules 2011, as follows:

- (a) Ms Sievers, being a non-Māori, has the ability to partition the block;
- (b) Ms Sievers, as sole owner of the block, has the ability to partition the block.

[26] While I have found that Ms Sievers, being non-Māori and sole owner of the block, has the ability to partition, I make no decision on the partition

wāwāhi, ki te tono panoni tūnga taitara anō hoki. Mō aua tono e rua, e tika ana me whakatū i tētahi kōtitanga tūturu kia rangona ngā taunakitanga me ngā tāpaetanga, kia pai ai te whakatutuki i ngā herenga katoa e kīa nei me whakatutuki i a au e whakaaro ana ki ngā ōta e pēnei nei.

application or the change of status application themselves. Both will require a full hearing to hear evidence and submissions to ensure I am satisfied of all matters I am required to be satisfied of in considering orders for applications of this nature.

[27] Ka toai ahau i konei ngā kupu a Kaiwhakawā Stone ki *Mullins* me tana kī:

[27] I reiterate the comments made by Judge Stone in *Mullins*:

Of course, the 1993 Act sets out a statutory framework for partitions. That framework includes mandatory matters about which the Court must be satisfied, matters that the Court must take into account, and the exercise of discretion. Every partition, whether of a solely owned block or otherwise, must fit within that framework. However, the point here is that the framework does not prohibit the partition of solely owned land. In the present case, the applicant will need to satisfy the requirements of the statutory framework for partitions. But she is not prohibited from doing so simply because she is the sole owner....

I whakapuakihia i te 10.00am, i Heretaunga, i te rā tekau mā whā o te marama o Mei i te tau 2026.

Pronounced at 10.00am in Hastings on this 14th day of May 2026.

A M Thomas
KAIWHAKAWĀ
JUDGE