

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

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

AP-20240000002992
CJ 2024/24

WĀHANGA
Under

Section 45, Te Ture Whenua Māori Act 1993

MŌ TE TAKE
In the matter of

Succession to Tukino Te Heuheu Tāite as
administrator to the estate of Pateriki Tāite

NĀ
By

KORO TĀITE
Te Kaitono
Applicant

Nohoanga:
Hearing

10 September 2025, 2025 Chief Judge's MB 1657-1674
Heard at Wellington (by Zoom)

Whakataunga:
Judgment date

17 December 2025

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

Hei tīmatanga kōrero

Introduction

[1] This application was filed pursuant to s 45 of Te Ture Whenua Māori Act 1993 (the Act). It was filed by Koro Tāite who seeks an order under s 44 amending a vesting order made at 6 Tokaanu (Alienation) MB 150-152 on 19 August 1971 concerning Tukino Te Heuheu as administrator of the estate of Pateriki Tāite.

Kōrero whānui

Background

[2] The Registrar's Preliminary Report and Recommendation ("the Registrar's Report") dated 31 July 2025 sets out the background to the application. The Registrar's Report is reproduced in full as follows:

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

Preliminary report and recommendation on an application under section 45 of Te Ture Whenua Māori Act 1993 to the Chief Judge

He kupu arataki

Introduction

- [1] This application filed by Koro Taite ("the applicant") seeks to amend an order vesting interests of the administrator Tukino Te Heuheu Taite in the entitled beneficiaries at 6 Tokaanu (Alienation) MB 150-152 dated 19 August 1971 relating to Pateriki Taite, father to the applicant.
- [2] The applicant claims the order is incorrect due to a mistake, error, or omission on the part of the Court because:
- (a) Rangitoto Tuhua 77F1A1A1 was vested in Timoti Taite and Koro Taite when it should have been vested to: Tukino Te Heu Heu Taite, Timoti Taite, Kathleen Heitiki Marsh, Hoani Erueti Taite, Luke Taite, and Koro Taite equally.
- [3] The applicant claims that they have been adversely affected by the order upon the grounds that *"many of the original beneficiaries are now deceased resulting in succession issues. Subsequently when Timoti Taite died, the original error meant 50% of the shares were split rather than 1/6 of the shares."*
- [4] The applicant seeks to have the order amended by vesting the shares held in Rangitoto Tuhua 77F1A1A1 to all children of Pateriki Taite equally.

He kōrero tuku iho

Background

- [5] The matter was heard by the Court at 6 Tokaanu MB 150-152 on 19 August 1971 and the minute is reproduced as follows:

150

EXTRACT FROM TOKAANU MINUTE BOOK (ALN) 6/ 150 - 157

was Date : *Thursday 19 August 1971*
 Place : Wanganui
 Judge : M.C. SMITH

Application (Unadvertised)

Pateriki Taite,
Deceased

Application by administrator to
vest interests in persons beneficially
entitled

COURT: ORDER - SEC.213 (4) - vesting the interests of Takiao Te Heuheu Taite as Administrator of the estate of the above deceased, in the under-mentioned lands, in the persons shown hereunder:-

	NAME OF LAND	SHARES OWNED BY ESTATE		
(a)	Whangaipeke 7B2	1.1666	out of 1306.8605	shares
	Whangaipeke 10	5.1667	out of 5145.8500	shares
	Pukawa 2F	1.41600	out of 135.2500	shares
	Puketapu 1 (Urupa)	1.1667	out of 179.5000	shares
	Ruamata	2.832980	out of 466.000000	shares
	Hautu 4B2B2B2B	4.0000	out of 706.9060	shares
	Hautu 4B2B1	4.0000	out of 5760.2590	shares

TO VEST IN:- TUKINO TE HEUHEU TAITE, Solely

(b)	Whangaipeke X	.5429	out of 6835.0000	shares
	Manunui No. 2	.0267	out of 680.0000	shares
	Rangitoto Tuhua 67B4C1C1	1.0000	out of 1.0000	shares

TO VEST IN:- KORO TAITE, Solely

(c)	Pukawa 2G2	1.0000	out of 198.5280	shares
	Puketapu 2 (Papakainga)	1.1667	out of 179.5000	shares
	Tokaanu Township Second Res.	.8334	out of 1956.8000	shares
	Rangitoto Tuhua 76B8B2E	1.3333	out of 20.0000	shares

TO VEST IN:- KATHLEEN HEITIKI MARSH, Solely

(d)	Puketapu 3B 6B 2A	.1429	out of 26.7500	shares
	Opawa Rangitoto 3	4.0000	out of 1695.4320	shares
	Turutururoa	1.5714	out of 1698.0000	shares

TO VEST IN:- LUKE TAITE, Solely

(e)	Pt Opawa Rangitoto 2G	5.83334	out of 6261.51824	shares
	Te Kopiha	.6667	out of 543.0000	shares
	Te Rongoroa Papakainga	.3334	out of 27.0000	shares
	Mangahouhou 3B	1.6667	out of 485.5231	shares

TO VEST IN:- TIMOTI TAITE, Solely

(f)	Whenuatapu-Ohinemoa	58.4902	out of 2747.5416	shares
	Te Rongoroa A8	7.9563	out of 985.1000	shares
	Tokaanu Township 4A	.83334	out of 389.84345	shares
	Rangitoto Tuhua 67B4C1B	1.0001	out of 37.3750	shares

TO VEST IN:- HOANI ERUETI TAITE, Solely

(g)	Pukawa 2H2B	.6667	out of 66.5000	shares
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ditto

- 2 -

TO VEST IN:- LUKE TAITE
KORO TAITE (As Tenants in common in equal shares)

(h) Puketapu 3C7B2 228.4592 out of 1144.0000 shares

TO VEST IN:- TIMOTI TAITE)
TUKINO TE HEUHEU TAITE)
KATHLEEN HEITIKI MARSH) As Tenants in Common
HOANI ERUETI TAITE) in Equal Shares
LUKE TAITE)
KORO TAITE)

(i) Rangitoto Tuhua 67B4A 1.3333 out of 75.0000 shares

TO VEST IN:- TIMOTI TAITE
HOANI ERUETI TAITE, (As Tenants in Common in Equal Shares)

(j) Rangitoto Tuhua
Pt 77F1A1A1 1.0000 out of 1.0000 shares

TO VEST IN:- TIMOTI TAITE
KORO TAITE (As Tenants in Common in Equal Shares)

(k) Pukawa B 25.29120 out of 3540.00000 shares

TO VEST IN:- TIMOTI TAITE)
TUKINO TE HEUHEU TAITE)
HOANI ERUETI TAITE) As Tenants in Common
LUKE TAITE) in Equal Shares
KORO TAITE)

u u

- [6] The Court made orders pursuant to section 213(4) of the Māori Affairs Act 1953 vesting the interests held by Tukino Te Heuheu Taite as Administrator of the estate of Pateriki Taite to the entitled beneficiaries:

Te whakatakotoranga o ngā poraka whenua:

Table of land blocks

Te rohe o Aotea:

Te poraka Block name	Te tohutoro LINZ LINZ title reference	Te kaiwhiwhi onāiane Current owner	Ngā hea The shares
Hautu 4B2B2B2E	494944	Tukino Te Heuheu Taite	4.0000
Hautu 4B2B1	464335	as administrator	4.0000
Pukawa 2F	WN302/239		1.41600
Puketapu 1 (Urupa)	475246		1.1667
Ruamata	SA30D/687		2.832980
Whangaipeke 7B2	441571		1.166
Whangaipeke 10	405870		5.1667

Te whakatakotoranga o ērā e āhei ana ki te whiwhi:

Table of successors that are beneficially entitled

Te ingoa Name	Te ira Male/Female/ Gender Diverse	Te ōwehenga Proportion
1 Tukino Te Heuheu Taite	M	Solely

Te rohe o Aotea:

Te poraka Block name	Te tohutoro LINZ LINZ title reference	Te kaiwhiwhi onāiane Current owner	Ngā hea The shares
Puketapu 3B 6B 2A	339956	Tukino Te Heuheu Taite as administrator	0.1429
Opawa Rangitoto 3	SA44B/936		4.0000
Turutururoa	SA61D/564		1.5714

Te whakatakotoranga o ērā e āhei ana ki te whiwhi:

Table of successors that are beneficially entitled

Te ingoa Name	Te ira Male/Female/ Gender Diverse	Te ōwehenga Proportion
2 Luke Timoti	M	Solely

Te rohe o Aotea:

Te poraka Block name	Te tohutoro LINZ LINZ title reference	Te kaiwhiwhi onāiane Current owner	Ngā hea The shares
Part Opawa Rangitoto 2G	669467	Tukino Te Heuheu Taite as administrator	5.83334
Te Kopiha	SA62D/190		0.6667
Te Rongoroa Papakainga	434193		0.3334
Mangahouhou 3B	478547		1.6667

Te whakatakotoranga o ērā e āhei ana ki te whiwhi:

Table of successors that are beneficially entitled

Te ingoa Name	Te ira Male/Female/ Gender Diverse	Te ōwehenga Proportion
3 Timoti Taite	M	Solely

Te rohe o Aotea:

Te poraka Block name	Te tohutoro LINZ LINZ title reference	Te kaihihihi onāiane Current owner	Ngā hea The shares
Rangitoto Tuhua 67B4C1C1		Tukino Te Heuheu Taite as administrator	1.0000
Manunui 2	459107		0.0267
Whangaiapeke X	SAPR256/47		0.5429

Te whakatakotoranga o ērā e āhei ana ki te whiwhi:
Table of successors that are beneficially entitled

Te ingoa Name	Te ira Male/Female/ Gender Diverse	Te ōwehenga Proportion
4 Koro Taite	M	Solely

Te rohe o Aotea:

Te poraka Block name	Te tohutoro LINZ LINZ title reference	Te kaihihihi onāiane Current owner	Ngā hea The shares
Puketapu 2 (Papakainga)	478029	Tukino Te Heuheu Taite as administrator	1.1667
Tokaanu Township Second Residue Block	225482		0.8334
Rangitoto Tuhua 76B8B2E	SA27D/523		1.3333
Pukawa 2G2	328697		1.0000

Te whakatakotoranga o ērā e āhei ana ki te whiwhi:
Table of successors that are beneficially entitled

Te ingoa Name	Te ira Male/Female/ Gender Diverse	Te ōwehenga Proportion
5 Kathleen Heitiki Marsh	F	Solely

Te rohe o Aotea:

Te poraka Block name	Te tohutoro LINZ LINZ title reference	Te kaihihihi onāiane Current owner	Ngā hea The shares
Whenuatupu Ohinemoa	483879	Tukino Te Heuheu Taite as administrator	58.4902
Tokaanu Township 4A	WN520/229		0.83334
Te Rongoroa A8	495260		7.9563
Rangitoto Tuhua 67B4C1B	442354		1.0001

Te whakatakotoranga o ērā e āhei ana ki te whiwhi:

Table of successors that are beneficially entitled

Te ingoa Name	Te ira Male/Female/ Gender Diverse	Te ōwehenga Proportion
6 Hoani Erueti Taite	M	Solely

Te rohe o Aotea:

Te poraka Block name	Te tohutoro LINZ LINZ title reference	Te kaiwhiwhi onāiane Current owner	Ngā hea The shares
Pukawa 2H2B (Pukawa C also known as Lot 53 Deposited Plan 34608 and Lot 54 Deposited Plan 34608)	WN11B/867, WN11B/866	Tukino Te Heuheu Taite as administrator	0.9413

Te whakatakotoranga o ērā e āhei ana ki te whiwhi:

Table of successors that are beneficially entitled

Te ingoa Name	Te ira Male/Female/ Gender Diverse	Te ōwehenga Proportion
2 Luke Taite	M	Equally as tenants in common
4 Koro Taite	M	

Te rohe o Aotea:

Te poraka Block name	Te tohutoro LINZ LINZ title reference	Te kaiwhiwhi onāiane Current owner	Ngā hea The shares
Rangitoto Tuhua Pt 77F1A1A1	439198	Tukino Te Heuheu Taite as administrator	1.0000

Te whakatakotoranga o ērā e āhei ana ki te whiwhi:

Table of successors that are beneficially entitled

Te ingoa Name	Te ira Male/Female/ Gender Diverse	Te ōwehenga Proportion
3 Timoti Taite	M	Equally as tenants in common
4 Koro Taite	M	

Te rohe o Aotea:

Te poraka Block name	Te tohutoro LINZ	Te kaiwhiwhi onāiane Current owner	Ngā hea The shares
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LINZ title reference			
Rangitoto Tuhua 67B4A	415302	Tukino Te Heuheu Taite as administrator	1.3333

Te whakatakotoranga o ērā e āhei ana ki te whiwhi:

Table of successors that are beneficially entitled

Te ingoa Name	Te ira Male/Female/ Gender Diverse	Te ōwehenga Proportion
3 Timoti Taite	M	Equally as tenants in common
6 Hoani Erueti Taite	M	

Te rohe o Aotea:

Te poraka Block name	Te tohutoro LINZ LINZ title reference	Te kaiwhiwhi onāiane Current owner	Ngā hea The shares
Pukawa B	WN454/51, WN454/50, WN32B/602, WN32B/601, WN302/235, 325110, 325109, 325108	Tukino Te Heuheu Taite as administrator	25.29120

Te whakatakotoranga o ērā e āhei ana ki te whiwhi:

Table of successors that are beneficially entitled

Te ingoa Name	Te ira Male/Female/ Gender Diverse	Te ōwehenga Proportion
1 Tukino Te Heuheu Taite	M	Equally as tenants in common
2 Luke Taite	M	
3 Timoti Taite	M	
4 Koro Taite	M	
6 Hoani Erueti Taite	M	

Te rohe o Aotea:

Te poraka Block name	Te tohutoro LINZ LINZ title reference	Te kaiwhiwhi onāiane Current owner	Ngā hea The shares
Puketapu 3C7B2 (now known as Puketapu 3C7B2B)	493941	Tukino Te Heuheu Taite as administrator	228.4592

Te whakatakotoranga o ērā e āhei ana ki te whiwhi:
Table of successors that are beneficially entitled

	Te ingoa Name	Te ira Male/Female/ Gender Diverse	Te ōwehenga Proportion
1	Tukino Te Heuheu Taite	M	Equally as tenants in common
2	Luke Taite	M	
3	Timoti Taite	M	
4	Koro Taite	M	
5	Kathleen Heitiki Marsh	F	
6	Hoani Erueti Taite	M	

Ngā kōrero taunaki

Supporting or other information

[7] The applicant has provided the following documents in support of their application:

- a) 6 ALTK 150-152 dated 19 August 1971 (minute complained of)
- b) Letters of Administration dated 25 June 1969, P.No. 158/69 (copy)
- c) Deed of family arrangement in estate of Pateriki Taite (copy)

Te rangahau a te kooti

Court research

[8] The record shows Pateriki Taite passed on 19 November 1968, first marriage to Maraea also known as Kaweri Taite who passed in 1950, and left six issue, namely Hoani Erueti Taite, Kathleen Heitiki Marsh, Koro Taite, Luke Taite, Tukino Te Heuheu Taite, and Timoti Taite. Second marriage to Carolina Maire Taite.

[9] Letters of administration were granted in favour of Tukino Te Heuheu Taite dated 25 June 1969 by the Supreme Court of New Plymouth.

[10] At 1 ADWG (Whanganui Sec 81) MB 19-20 dated 14 April 1970 pursuant to section 81 of the Māori Affairs Amendment Act 1967 the said interests of the deceased Pateriki Taite were vested in Tukino Te Huehue Taite as administrator.

[11] At 5 ADGW (Whanganui Sec 81) MB 53 dated 9 June 1987 pursuant to section 81 of the Māori Affairs Amendment Act 1967 further interests of the deceased Pateriki Taite were vested in Tukino Te Huehue Taite as administrator.

[12] At 10 RGWG (Whanganui Sec 81A) MB 103-105 dated 29 January 1988 the interests held by Tukino Te Huehue Taite at 5 ADGW MB 53 dated 9 June 1987 as administrator were vested equally in Tukino Te Heuhue Taite, Timoti Taite, Hoani Erueti Taite, Luke Taite, Koro Taite, and Kathleen Heitiki Marsh.

[13] At 6 Tokaanu (Alienation) MB 150-152 dated 19 August 1971 the interests held by Tukino Te Huehue Taite as administrator at 1 ADWG MB 19-20 dated 14 April 1970 were vested in beneficiaries pursuant to section 213(4) of the Māori Affairs Act 1953.

Section 213(4) of the Māori Affairs Act 1953 is as follows:

If on the hearing of an application under this section it appears to the Court that some modification in favour of the owners should in justice be made in the terms of the arrangement or agreement, the Court may, with consent of the alienee, modify the terms of such arrangement or agreement.

- [14] As the interests were initially vested in all six children of Pateriki Taite equally at 10 RGWG MB 103-105 dated 29 January 1988, there was a change to how the shares were distributed at 6 Tokaanu MB 150-152 dated 19 August 1971. This change was due to a family arrangement dated May 1971, and also aligns with section 213(4) of the Māori Affairs Act 1953.
- [15] The applicant has provided a copy of the family arrangement upon application, but the historical court record does not mention the arrangement or hold a hard copy, but the shares vested at 6 Tokaanu MB 150-152 are in line with the family arrangement.
- [16] The deed of family arrangement in estate of Pateriki Taite is partially reproduced as follows:

THIS DEED made this ?? day of May 1971 **BETWEEN TUKINO TE HUE HUE TAITE** of Owhango (hereinafter called “the Administrator) of the one part and **TUKINO TE HEU HEU TAITE** of Owhango, **TIMOTI TAITE** of Taumarunui, **KATHLEEN HEITIKI MARSH** of Otara, **HOANI ERUETI TAITE** of Putaruru, **LUKE TAITE** of Taumarunui and **KORO TAITE** of Taumurunui, (herein called “the Beneficiaries”).

WHEREAS the said **TUKINO TE HEU HUE TAITE** is the Administrator of the Estate of **PATERIKI TAITE** who died on the 19th day of November 1968 under Letters of Administration granted by the Supreme Court at New Plymouth on the 25th day of June 1969 under No. P.158/69.

AND WHEREAS the Beneficiaries are the beneficiaries in the said Estate and as such are entitled to share equally in it.

AND WHEREAS the said Estate is comprised mainly of Maori Land interests and shares in Maori Incorporations and for the purpose of facilitating the distribution of the said estate the parties hereto have agreed to the valuation and distribution among themselves of the abovementioned assets in the said estate according to the schedule annexed hereto.

AND WHEREAS all debt funeral and other testamentary expenses of the said deceased have been paid.

AND WHEREAS CAROLINA MARIE TAITE of Taumarunui paid certain of the debts of the deceased and the parties hereto are agreed that she should be reimbursed by payment to her of the sum of **TWO HUNDRED AND TWENTYFIVE DOLLARS**. (\$225.00) out of the said estate.

AND WHEREAS one of the assets included in the Schedule hereto is the parcel of land comprising TWO ROODS (0.a, 2r. 00p.) more or less being the block situated in Block V Tuhuna Survey District called Rangitoto Tuhua 77F1A1A which was occupied by the family of the said deceased.

AND WHEREAS the Beneficiaries desire to retain this property as and for the family home and under the Schedule hereto are each entitled to an equal share in the said property.

AND WHEREAS for the better administration of the said property the beneficiaries are agreed that the said property should be vested in **TIMOTI TAITE** and **KORO TAITE** to hold same as trustees on behalf of all the beneficiaries.

**NOW THIS DEED WITNESSETH AND THE BENEFICIARIES DO
HEREBY AGREE TO AND INSTRUCT THE ADMINISTRATOR TO
DISTRIBUTE THE SAID ESTATE AS FOLLOWS:**

1. **TO TRANSFER** and Distribute the various land interests and interests in Maori Incorporations with exception of the Rangitoto Tuhua 77F1A1A Block in accordance with the said Schedule hereto.
2. **TO VEST** the interest of the deceased in Rangitoto Tuhua 77F1A1A Block in **TIMOTI TAITE** and **KORO TAITE** to hold the same as trustees for all the beneficiaries equally.
3. **TO PAY** to **CAROLINA MARIE TAITE** the sum of **TWO HUNDRED AND TWENTYFIVE DOLLARS** (\$225.00) out of the said estate.
4. **TO DISTRIBUTE** the balance of the said estate after payment of all administration expenses among all the beneficiaries so that each beneficiary receives an equal share after taking into account the value of interests transferred to each beneficiary pursuant to the Schedule hereto.
AND WE TIMOTI TAITE and KORO TAITE DO HEREBY AGREE to accept a transfer of the interest of the deceased in Rangitoto Tuhua 77F1A1A Block as Trustees for and on behalf of all the beneficiaries equally.
AND WE the Beneficiaries their executors administrators and assigns do hereby consent to and ratify the arrangements hereby made and do hereby request the administrator to enter into such agreements and arrangements as are necessary to give effect to the terms hereof and subject to the compliance of the said administrator with the terms hereof and subject to the compliance of the said administrator with the terms hereof will hereafter save harmless and keep indemnified the said administrator from actions claims suits or demands which can or might arise out of his administration of the said estate.

- [17] The Deed of Family Arrangement was signed by all six children of Pateriki Taite, and the shares in the respective land interests were vested in those determined in the family arrangement and executed at 6 Tokaanu MB 150-152 dated 19 August 1971.
- [18] The family arrangement states that Timoti Taite and Koro Taite are to hold the interests in Rangitoto Tuhua 77F1A1A1 as trustees for and on behalf of all the beneficiaries equally, the court order records the shares were vested in them as tenants in common in equal shares.

Section 163 of the Maori Affairs Act 1953 is as follows:

163. *When two or more persons are named in any freehold order as entitled to any land, they shall hold the same as tenants in common in the shares expressed in the order.*

- [19] The court record also shows that Rangitoto Tuhua 77F1A1A1 was partitioned at 78 OTR MB 266 dated 24 November 1953, the block is now known as Rangitoto Tuhua Part 77F 1A 1A 1.

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

- [20] At 273 Waiariki MB 206-207 on 14 April 2022 the court made orders vesting interests of the deceased in successors pursuant to sections 113 and 117 of Te Ture Whenua Māori Act 1993, relating to Timoti Taite or Timoti Te Taite.

Timoti Taite or Timoti Te Taite, passed on 28 January 2013, was not legally married and had no issue, by way of will his Māori land interests were to be vested in John Taite, Luke Taite, Koro Taite, Tukino Taite and Kathy Marsh also known as Kathleen Heitiki Marsh living at his death.

The following is recorded at 236 Waiariki MB 177:

The Court: *Now, in his will, he was quite specific here;
The interest which I own at my death in any Māori freehold land
and all shares in Māori Incorporation to be divided equally among
my brothers John, Luke, Koro, Tukino and my sister Kathy living
at my death.
Okay. I checked the will on this to see whether he had another
clause, because sometimes we have another clause which says and
if they have passed away, then their interest will go to their
children.*

Koro Taite: *Right*

The Court: *He didn't have such a clause, did he?*

K Taite:*No, it was pretty basic.*

The court vested the interests of Timoti Taite in Kataraina Taite or Kathy Marsh, Hoane Taite or John Taite or Hoani Erueti Taite, Koro Taite or Koro Apirana Taite, and the Luke Ruka Taite Whānau Trust equally as to a ¼ proportion.

Ngā utunga nā te putanga o te ōta

There are no payments made because of the order complained of as it only relates to the Rangitoto Tuhua Part 77F 1A 1A 1 block.

Ngā āhuatanga i rararu ai

Areas of difficulty

[21] No areas of difficulty.

Āe rānei, he take o tana haere ki tētahi kootitanga

Consideration of whether matter needs to go to hearing

[22] It appears there was no mistake, error or omission of the court, the Deed of Family Arrangement was implemented as sought, it was then in the hands of Koro Taite and Timoti Taite to hold the shares in Rangitoto Tuhua 77F1A1A1 in a fiduciary capacity, they could have made an application to vest those shares equally to the remaining siblings when they thought it appropriate.

[23] Koro Taite and Timoti Taite were recorded as tenants in common therefore if one owner passes their share does not automatically pass to the surviving owner, instead their share becomes part of their estate and is distributed according to their will, as what has occurred in this instance.

[24] The application should be set down for hearing to afford affected parties an opportunity to respond.

Te tūtohunga hei whai

Recommendation of course of action to be taken

[25] I recommend that:

- a) Since the applicant was holding shares in a fiduciary capacity and filed this application knowing the intention was to vest the shares held in Rangitoto Tuhua 77F1A1A1 to all six siblings, and if the Chief Judge is of the same mind, that the minute and order complained of concerning Rangitoto Tuhua 77F1A1A1 at 6 Tokaanu (Alienation) MB 150-152 dated 19 August 1971 be amended to reflect the shares held by Tukino Te Huehue Taite as administrator be vested in all six children of Pateriki Taite, namely Timoti Taite, Koro Taite, Tukino Te Heu Hue Taite, Kathleen Heitiki Marsh, Hoani Erueti Taite and Luke Taite equally.
- b) I also note that due Tukino Taite predeceasing Timoti Taite the will of Timoti Taite has affected the uri of Tukino Taite by excluding them to the shares they would have been entitled to if Tukino Taite was living. If affected parties agree, I also ask the court to consider amending the court minute at 236 Waiariki MB 173-178 dated 25 June 2020 by including Tukino Taite as a successor to Timoti Taite.
Also amending the court minute and order at 273 Waiariki MB 206-207 dated 14 April 2022 to include Tukino Taite as a successor to Timoti Taite with substitution of issue.
- c) a copy of this report is sent to parties giving them an opportunity to comment or respond in writing.
- d) if there are no objections, the Chief Judge makes an order under section 44(1) of Te Ture Whenua Māori Act 1993:
 - i. amending the minute and order at 6 Tokaanu (Alienation) MB 150-152 dated 19 August 1971 by vesting the shares in Rangitoto Tuhua 77F1A1A1 in Koro Taite, Timoti Taite, Tukino Te Heuheu Taite, Luke Taite, Kathleen Heitiki Marsh, and Hoani Erueti Taite equally.
 - ii. amending the minute at 236 Waiariki MB 173-178 dated 25 June 2020 to include Tukino Taite as a successor to Timoti Taite.
 - iii. amending the minute and order at 273 Waiariki MB 206-207 dated 14 April 2022 to include Tukino Taite as a successor to Timoti Taite with substitution of issue.
- e) the Chief Judge makes further orders under section 47(4) of Te Ture Whenua Māori Act 1993 for any other changes required to give effect to the orders made above.
- f) If objections are received, then the matter should be referred to Chief Judge for directions.

Ko te hātepe ture o te tono nei

Procedural history

[3] A copy of the Registrar's Report and a notice of hearing was sent to the applicant and to those parties we have contact details for, requesting feedback by 1 August 2025.

[4] The court received feedback to the Registrar's Report from Shirlene Taylor, also signed by James Baker Tāite, Patrick Hugh Tāite, and Paul Tāite ,supporting [25] b) and [25] d), ii and iii of the Report.

[5] A copy of the draft submission was sent to the applicant and affected parties on 13 August 2025.

[6] An email dated 4 September 2025 was received from Koro Tāite where he requested that the 1 share in Rangitoto Tuhua 77F1A1A1 be split equally amongst the siblings, however his concern was regarding Timoti Tāite's share in relation to clause 4.1(2) of the will dated 18 April 1994, which leaves all shares equally to John Tāite, Luke Tāite, Koro Tāite, Tukino Tāite, and Kathy Marsh living at his death.

Te Nohoanga a Te Kooti

Court Sitting

[7] The application was heard on 10 September 2025. At the hearing Koro Tāite stated that, "... there has definitely been an error on our part." Several people raised questions regarding Timoti Tāite's will and requested his shares be divided. I reserved judgment on the application.

[8] A copy of 2025 Chief Judge's MB 1657-1674 dated 10 September 2025 was distributed to the applicant and interested parties on 23 and 24 October 2025.

Ngā Ture

The Law

[9] 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 s 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.

[10] 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:¹

- 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);
- Section 45 applications are not to be treated as a rehearing of the original applications;
- The principle of *omnia praesumuntur rite esse acta* (everything is presumed to have been done lawfully unless there is evidence to the contrary) applies to s 45 applications. Therefore, in the absence of a patent defect in the order, there is a presumption that the order made was correct;
- Evidence given at the time the order was made, by persons more closely related to the subject matter in both time and knowledge, is deemed to have been correct;
- The burden of proof is on the applicant to rebut the two presumptions above; and
- As a matter of public interest, it is necessary for the Chief Judge to uphold the principles of certainty and finality of decisions. These principles are reflected in 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

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

reason, the Chief Judge's special powers are used only in exceptional circumstances.

[11] 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.

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

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

The first is an evaluative decision as to whether the order made was "erroneous in fact or in law because of any mistake or omission on the part of the court or the 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

[14] 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?

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

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

- (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?

[15] Based upon the research completed by the case manager there was no error made as the Deed of Family Arrangement was implemented. It was then in the hands of Koro Tāite and Timoti Tāite to seek an order vesting those shares equally in their other siblings. The original order cannot be amended as sought.

[16] Therefore, I cannot amend the order in the manner sought just because the applicant now wishes for it to be amended. My jurisdiction under s 44 can only be used when an error was made by the Court. The fact that 34 years later the applicant wants a distribution of shares to reflect the fiduciary duty he and his brother owed comes too late with respect to Tāite's estate. The standard rules relating to s 45 applications apply.

[17] The applicant can fulfil his obligations before he passes. Tāite's estate and succession orders stand, unless challenged. If the beneficiaries under his will wish to gift some of their shares to those who missed out, they may do so, but this s 45 application cannot be the vehicle for such an arrangement. Rather, they would have to apply under s 164 to the Māori Land Court.

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

[18] This component of my s 44 jurisdiction cannot be used where there was no error.

Kupu whakataunga
Decision

[19] As there was no error made by the Court at 6 Tokaanu (Alienation) MB 150-152 on 19 August 1971, the application is dismissed.

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

I whakapuaki i te 2.00 pm i Te Whanganui-a-Tara, tekau mā whitu o ngā rā o Tihema 2025.
Pronounced at 2.00 pm in Wellington on this 17th day of December 2025.

C L Fox
CHIEF JUDGE