

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

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

AP-20240000010025

AP-20240000010051

WĀHANGA
Under

Sections 18(1)(a), 19 and 242, Te Ture Whenua
Māori Act 1993

MŌ TE TAKE
In the matter of

Part Maungakawakawa 20 and Other

I WAENGA I A
Between

PESSIMAN PEHIMANA TE WHATA AND
TOKIKAPU TE WHATA
Ngā kaitono
Applicants

ME
And

CRAIG SANSON AND DAVID BRIDGMAN
Ngā kaiurupare
Respondents

Nohoanga: On the papers
Hearing (Heard at Chambers)

Whakataunga: 24 March 2025
Judgment date

TE WHAKATAUNGA Ā KAIWHAKAWĀ M P ARMSTRONG
Judgment of Judge M P Armstrong

Copies to:
R Hindriksen, Meredith Connell, PO Box 24546, Wellington 6140, reuben.hindriksen@mc.co.nz

Introduction

[1] Pehimana Te Whata was formerly a director of two limited liability companies, Tarahau Farming Limited (TFL) and Shearing Services Kamupene Limited (SSKL). In 2016, SSKL was put into liquidation by the High Court. Mr Sanson and Mr Bridgman were appointed as the liquidators. The Commissioner of Inland Revenue filed an unsecured creditor's claim in SSKL's liquidation in the sum of \$4,743,798.15.

[2] Prior to its liquidation, SSKL made loan advances to TFL in the amount of \$149,704.43. Following the liquidation, Mr Sanson and Mr Bridgman took proceedings in the High Court on behalf of SSKL to recover those advances from TFL. The Court awarded judgment in favour of SSKL in the amount of \$205,091.66.¹

[3] In response, Mr Te Whata filed various applications in this Court seeking, amongst other things, an injunction preventing SSKL from enforcing the judgment awarded by the High Court. I issued two decisions where I made it clear to Mr Te Whata that I cannot grant an injunction prohibiting the liquidators from taking proceedings in the High Court, or from enforcing High Court orders.²

[4] The liquidators have now obtained a further order from the High Court authorising the seizure and sale of TFL land and assets to repay the debt owed (sale order). Once again, Mr Te Whata has filed applications in this Court to try and frustrate the enforcement of that order.

[5] Mr Te Whata has now filed 'without notice' applications seeking:

- (a) An injunction to stop the liquidators from selling TFL land;
- (b) Transmission of land interests in Motatau 5 by way of survivorship;
and
- (c) Orders for payment of money held in trust.

¹ This award has since grown to \$246,767.72 adding interest and costs to the original judgment.

² 247 Taitokerau MB 27-70 (247 TTK 27-70); and *Ngāti Moerewa Māori Incorporation v Sanson – Part Maungakawakawa 20* (2024) 274 Taitokerau MB 292 (274 TTK 292).

[6] Although the applications were filed on a ‘without notice’ basis, I directed the Registrar to send copies to the respondents, and for the parties to file submissions on the applications.³ Mr Hindriksen, for the respondents, filed those submissions. Mr Te Whata did not. Instead, Mr Te Whata sent further applications seeking an injunction and discovery.⁴ I now consider whether I should grant the orders sought.

Should I grant the injunction?

[7] As noted, I have already issued two decisions where I made it clear to Mr Te Whata that I cannot grant an injunction prohibiting the liquidators from taking proceedings in the High Court, or from enforcing High Court orders.⁵ Despite that, Mr Te Whata has now filed a further application seeking to prevent the liquidators from enforcing the sale order.

[8] I have no jurisdiction to grant an injunction preventing the liquidators from enforcing High Court orders. Mr Te Whata knows this. This further attempt to seek such an order is frivolous, vexatious and an abuse of process.⁶

Should I grant the transmission?

[9] Mr Te Whata seeks an order transmitting the interests of various original owners in Motatau 5 by survivorship. He claims that at least one of those owners is his tipuna.

[10] Transmission by survivorship relates to a joint tenancy. Where two or more people hold interests in land as joint tenants, that interest will be vested in the last surviving tenant.

[11] In 1909, Motatau No. 5 was vested in 811 owners who held shares in unequal amounts as tenants in common.⁷ Over the last 100 years, those interests have been vested in numerous other owners through succession, vesting and partition orders.

³ 277 Taitokerau MB 187 - 188 (277 TTK 187 - 188).

⁴ Mr Te Whata sent these applications to the Registrar by email instead of filing submissions as directed. These applications were not filed per the Māori Land Court Rules 2011 and have not been received or processed. There is no need to consider these applications as part of this proceeding.

⁵ 247 Taitokerau MB 27-70 (247 TTK 27-70); and *Ngāti Moerewa Māori Incorporation v Sanson – Part Maungakawakawa 20* (2024) 274 Taitokerau MB 292 (274 TTK 292).

⁶ See my discussion of this in and *Ngāti Moerewa Māori Incorporation v Sanson – Part Maungakawakawa 20* (2024) 274 Taitokerau MB 292 (274 TTK 292).at [26].

⁷ 42 Northern MB 10 (42 N 10)

[12] The interests Mr Te Whata refers to were not held as a joint tenancy. I cannot grant transmission by survivorship to interests held as tenants in common. Mr Te Whata also refers to historical interests which have long been superseded. This application has no merit.

Should I grant the payment order?

[13] Per s 242 of the Act, I can order that any money held on trust for Māori, or derived from Māori land, be paid to those persons beneficially entitled to it.

[14] Mr Te Whata's application states:

The applicant claims the rights, titles, estates and interests of the tupuna shareholders through the application for transmission by survivorship....

[15] The transmission application refers back to original owners in Motatau 5. Mr Te Whata has not demonstrated that he is entitled to succeed to any of those original owners or that money is held on trust for those owners.

[16] In the application, Mr Te Whata further states:

I refer to the total charges claimed by SSKL to being \$455,548.31.

[17] It appears that this is a misguided attempt by Mr Te Whata to use funds owed to Māori landowners to pay his company's debt. This application also has no merit.

Decision

[18] These applications are dismissed.

Costs

[19] The respondents seek costs.

[20] In my 2024 judgment, I directed the parties to file submissions on costs concerning that application.⁸ Mr Hindriksen filed submissions as directed, Mr Te Whata did not. Instead,

⁸ *Ngāti Moerewa Māori Incorporation v Sanson – Part Maungakawakawa 20* (2024) 274 Taitokerau MB 292 (274 TTK 292).at

Mr Te Whata filed these new applications which have now been dismissed. I have not yet determined costs concerning the 2024 judgment.

[21] I now issue the following directions:

- (a) The respondents are to file and serve by 21 April 2025 submissions on costs concerning this judgment (Mr Hindriksen has already filed submissions on costs concerning the 2024 decision);
- (b) Mr Te Whata is to file and serve by 21 May 2025 any submissions on costs concerning the 2024 judgment and this judgment; and
- (c) I will determine costs for both matters on the papers.

I whakapuaki i toru karaka i Whangarei, i te tekau ma wha o ngā ra o Māehe i te tau 2025.

Pronounced at 3:00pm in Whangarei, 24th day of March 2025.

M P Armstrong
JUDGE