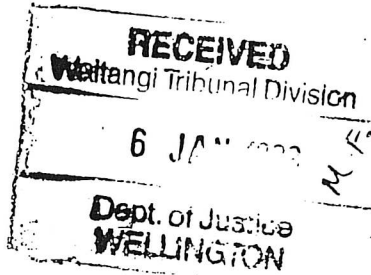


Claim 339
WAI

R.D.1
OPOTIKI

17 December 1992

Chief Judge Durie
Chairman
Waitangi Tribunal
WELLINGTON



Dear Sir

HIWARAU C BLOCK

I, being the Chairman of the newly elected Responsible Trustees of Hiwarau C Block, and one island comprising approximately 800 acres, have been asked to seek your assistance. There is much confusion about the block, and the Responsible Trustees request that the Waitangi Tribunal investigate the circumstances relating to its deterioration, and make recommendation accordingly to the Maori Land Court, in Rotorua.

- 1) Prior to confiscation the original area was about 1321 acres, ^{4 Islands} the boundary being from Maraetoto Stream to the west of Ohiwa Harbour. Granted under the 4th and 6th Clauses of the Confiscation Lands Act 1867.
- 2) after confiscation the land granted to the rebels comprised 1200 acres and one island. The rebels numbered 30 women who were blamed with Mokomoko for the murder of Volkner. Refer Document A, Maori Land Court, dated 17th March 1898.
- 3) From 1867 to 1962 that 1200 acres has been drastically reduced to 800 acres, and one island. Refer Maori Land Court document A, judge Seamnet, March 1895, Pg 2.

After 98 years we are left with mismanagement by the Land Court, and the Maori Trustee. As a result we are left with much run down block of land, no finance, and arrears in rates and rent.

We are capable of managing this block, but feel as Trustees acting on Behalf of the owners, we are severely disadvantaged.

We look forward to an early response.

Yours faithfully



Tuiringa Mokomoko
CHAIRMAN

(A)

OPOTIKI, THURSDAY, 17TH MARCH, 1898.

H. Dunbar Johnson, - Judge.

HIWARAU.

J U D G M E N T.

In this case, Te Warana Mokokoko and others ask for the definition of relative interests in the Hiwarau Block and claim that only thirty persons are entitled to full rights as being really members of the Upokorehe Tribe, to whom they state that the grant of land made by the Government was restricted. They also state that the other twenty-six persons in the title are members of N'Karetehe, N'Hunapo, Te Kareke and other hapus - not Upokorehe - and that therefore they should get merely nominal interests, as having been included in the title without right.

Mihaere Rehua, on behalf of the persons objected to set up a case, which was afterwards conducted by Rimaha to Pahau, who claims that most of the twenty-six persons are really Upokorehe, which is a general name given, in connection with the killing of Taikurere, to the people of a number of hapus in the Ohiwa district - the descendants of Raumoia - and objects to several of the thirty persons represented by Te Warana Mokokoko, as being members of another branch of the Upokorehe - N'Raumoia and N'Patu - who have become identified with Whakatohea, and got land at Opape, etc.

This block - and the island named Hokianga, in its vicinity - formed part of the area confiscated by the Government at the time of the war. It was subsequently awarded by the Compensation Court, in conjunction with Mr. I.A. Wilson, Crown Agent, to fifty-six persons named as being members of the Upokorehe hapu - as stated in notice published in the N.Z. Gazette of 14th November, 1874 - but the relative interests of those persons were not then defined.

At the outset of this case, the Court explained that, being confiscated land returned by the Government to specified individuals, the ancestral title was not involved, but Te Warana Mokomoko was very desirous of bringing out certain matters in support of his claim and the Court allowed him to proceed.

A good deal of conflicting evidence has been given but the Court is of opinion that Tapui te Kaka's evidence is reliable and that the name Upokorehe was a general name applied to people of various hapus living in the Ohiwa/Waiotaha district.

Reference has been made to evidence given before Judge Scannell in March, 1895, at the hearing of claim to succeed to the interest of Tawhi, deceased, in this block. Te Warana Mokomoko laid particular stress on the fact that Rawiri Makawe (who was then alive and gave evidence) was well-versed in genealogies, etc. but this Court found that the evidence he gave distinctly supported the view now urged by Te Warana's opponents. Hemi Kakitu was also then alive, and gave evidence, being supported on that occasion by Wi te Akeake, who is, strange to say, on the opposite side!

This Court is of opinion that, when adopting the name Upokorehe as a collective name for the fifty-six persons in the schedule of owners of this block, the Compensation Court and Crown Agent did so merely to distinguish a certain set of people who had lived in the Ohiwa/Waiotaha district and for whom land was to be provided for settlement purposes. The award then made was final and conclusive in favour of the individuals named, and it was not then contemplated that there should be a further enquiry with a view to (practically) the elimination of any who could not claim to be ancestrally connected with the Upokorehe. It appears to be quite true that a few individuals really belonged to outside tribes - such as N'Kahungunu, etc. - but they had become identified with the Ohiwa/Waiotaha people owing to long

residence amongst them, and it is to be presumed that, in including those persons in the schedule, the Compensation Court and Crown Agent were fully aware of their position. So also in respect of persons included in other awards - at Opape, etc. - this Court assumes that the Compensation Court and Crown Agent were fully cognizant of those matters and had good reasons for the action they took.

This Court has simply to complete work left unfinished by the Compensation Court - that is, the definition of the relative interests of the owners. If such had been done at the time that the list of owners was settled, this Court feels quite sure that all would have been treated fairly and that no attempt would then have been made to oust anybody, or to give merely nominal interests, more especially such persons as Hemi Kakitu and Te Teira Haruru, who were undoubtedly leading men, and who were so regard^{ed}/by the Compensation Court and Crown Agent. To do what has been asked would be simply going behind the award of the Compensation Court, and would be virtually making a fresh order in favour of a limited number of persons - a position which this Court is not prepared to take up.

Taking that view, this Court awards three shares to each adult male, two shares to each adult female, and one share to each child - as set out in list published in the N.Z. Gazette of 14th November, 1874 - making a total of 122 shares.

Order accordingly.
