

**IN THE MĀORI APPELLATE COURT OF NEW ZEALAND
WAIARIKI DISTRICT**

**A20170001037
APPEAL 2017/2**

UNDER Section 58, Te Ture Whenua Māori Act 1993

IN THE MATTER OF An appeal against a succession order of the
Māori Land Court made on 7 June 2016 at 142
Waiariki MB 167 in respect of Te Urupiki
Samuel also known as Te Urupiki Strongman or
Urupiki Samuel

BETWEEN REIHANA SAMUEL
Appellant

AND DELAREY SAMUEL
RANGITEAORERE SAMUEL
Respondents

Hearing: 9 May 2017
(Heard at Rotorua)

Court: Deputy Chief Judge C L Fox (Presiding)
Judge S F Reeves
Judge M P Armstrong

Appearances: C Hockly for the appellant
J Hope for the respondents

Judgment: 07 June 2017

JUDGMENT OF THE MĀORI APPELLATE COURT

[1] Reihana Samuel appeals the decision of Judge Coxhead pronounced on 7 June 2016 where he determined that Delarey Samuel and Rangiteaorere Samuel were entitled to succeed to the Māori land interests of Te Urupiki Strongman. Mr Samuel has also filed applications seeking leave to appeal out of time, and to adduce further evidence.

[2] The appeal was heard on 9 May 2017 to consider the preliminary questions of whether the appeal should be accepted out of time and whether new evidence should be adduced. After hearing from Mr Hockly, we directed that the minute from the hearing was to be sent to the respondents who were to file any submissions in reply within two weeks. Mr Hope filed a submission on behalf of Delarey Samuel.

[3] Mr Hockly argues that his client, and other family members, were not notified of the application or the hearing before Judge Coxhead. Mr Hockly contends that, as a result, his client did not attend the hearing and was unable to present material evidence on whether the respondents are entitled to succeed in this case. Mr Hockly submits that the appeal should be accepted out of time and that his client should have the opportunity to adduce further evidence.

[4] Mr Hope accepts that the appellant was not notified of the application or the hearing before Judge Coxhead. Mr Hope argues that further evidence is required from all parties to properly address the issues raised on appeal. Mr Hope submits:

28. It is conceded that the appeal cannot be dismissed given the issues that are raised, and in particular the breach of natural justice in respect of the interests and views of the deceased's siblings. The Court's power under section 56(1)(g) should not be exercised.
29. It is submitted that this matter should simply be referred back to the Māori Land Court pursuant to section 56(1)(e) for a rehearing of the whole of the matter, except for the order made under section 242 of the Act (142 Waiariki MB 169).

[5] We agree with this approach though we consider that the whole application should be referred to the Maori Land Court for rehearing.

[6] Pursuant to section 56(1)(e) of Te Ture Whenua Māori Act 1993 we direct a rehearing of application A20160001927 by the Māori Land Court. We leave it to the judge

of the Māori Land Court, who will now rehear this application, to issue directions timetabling the filing of further evidence by the appellant and the respondents.

This judgment will be pronounced at the next sitting of the Māori Appellate Court.

C L Fox (Presiding)
Deputy Chief Judge

S F Reeves
Judge

M P Armstrong
Judge