1IN THE HIGH COURT OF THE COOK ISLANDS
HELD AT RAROTONGA
[LAND DIVISION]

APPLICATION 332/98

IN THE MATTER of Section 450 of the Cook Islands Act 1915
AND
IN THE MATTER of an application by TURIAN RATUMU for the revocation of certain succession orders made in respect to VAEVAE RATUMU.

APPLICATION 331/98
IN THE MATTER of an application by TURIAN RATUMU to succeed to the interests VAEVAE RATUMU.

Decision of the Court.

These applications have been filed on behalf of the issue of Raturnu Vaevae Ratumu [hereinafter referred to as "Ratumu"] ,who are resident in New Zealand.Succession orders are sought in respect of the interests of Vaevae Ratumu still in the name of the deceased,and the revocation of succession orders made on 23rd October 1973,21st May 1975,and 19th September 1988.

Central to the applications is a claim that Ratumu was a child of Vaevae and accordingly entitled to succeed.

Objections were lodged on behalf of the issue of Vaevae living in the Cook Islands, who argue that Ratumu was not a natural child of Vaevae.

Evidence adduced by the applicant in support of the claim include;

[a] A copy of the death certificate of Ratumu recording his death on the 21st August 1997, and showing his mother and father as Teura Tungane and Vaevae Ratumu respectively.

[b] A copy of the birth certificate of Ratumu recording his date of birth as 29th November 1930, and showing Teura Rakata as his mother. There is no record of his father noted on the certificate.

[c] Statements of support by 6 of the issue of Vaevae consenting to the inclusion of the applicants in the successions,although those statements did not in any way admit the paternity claimed.

[d] Oral evidence that Ratumu was brought up by Metuamanu,an aunt of Vaevae.

It is appropriate at this stage to consider the weight to be attached to this evidence having regard to the overall evidence presented to the Court.

In the first instance it is recognised that the particulars entered on a death can be taken as evidence of the date of death only, and all other details,while important for the purposes

of identification ,are of little probative value. Further, the weight to be afforded those details will depend upon the knowledge of the person supplying the information.In this present case the worth of the claimed paternity as recorded on the death certificate is diminished when the evidence shows that the information provided on the certificate was submitted by the claimant,and the birth certificate of the deceased,Ratumu is shown to be silent on the matter of paternity.
Perhaps the most damning evidence against the paternity as claimed, is the statement, purportedly written by Vaevae ,denying that he was the father of Ratumu.,and recording Ratumu's father as a French/Tahitian. A fact that gathers strength from the evidence that Vaevae's wife was herself of Tahitian extraction.
The birth certificate of Ratumu does little to advance the cause of the applicants since it is silent on the question of paternity. To the contrary, the birth certificate adds weight to the statement made by Vaevae,since it records that Ratumu was born on the 29th November 1930, whereas the marriage certificate of Vaevae and Teura records their marriage as at the 3rd June 1932.

Although it was stated that 6 of the issue of Vaevae supported the inclusion of the issue of Ratumu in the succession orders,their statements fell short of confirming the paternity as claimed. Whilst it would be churlish to water down the evidenc of those supporting the claimants, merely because of the fact that they resided "off Island",it must not be overlooked that all of the issue of Vaevae residing in the Cook Islands opposed the applications.

The fact that Ratumu was given the family name, and was brought up by Metuamanu.an aunt of Vaevae ,does little but show that there was existing a sense of family unity, sinceTutavake, the eldest son of Vaevae, was also brought up by Metuamanu.

Counsel for the applicants, in her submissions of the 2nd February 1999,challenged the statement of Vaevae,and urged the court not to accept it or at least not to rely on it solely,to determine the question of paternity.

Counsel also submitted ,that considerable weight should be attributed to the fact that Ratumu was afforded the family name, and was brought up by Metuamanu,who was within the kin group of Vaevae.

The weight of evidence is against her however.

The statement made by Vaevae ,denying paternity, must be accepted , because of the support afforded it by the absence of the name of Ratumu's father on his birth certificate; the fact that Vaevae's wife, who was indisputably the mother of Ratumu,was of Tahitian descent ,as was Ratumu's natural father ,as described in Vaevae's statement; and the absence of any compelling evidence from Ratumu's claimed siblings.

In the absence of any adequate evidence to establish the paternity as claimed, and in the absence of any evidence of adoption, the issue of Ratumu have no legal right to succeed to the interests of Vaevae,and therefore , the application to revoke the succession orders

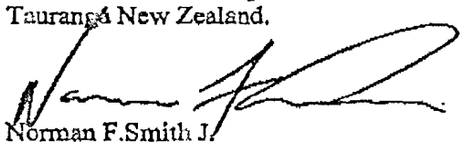
must fail.

That application is dismissed.

In so far as it has been established that the applicants are not entitled to succeed,that application too
must fail.

The application for succession is dismissed.

These decisions were pronounced this 19th January 2000 [New Zealand time ] at Tauranga New Zealand.



Norman F.Smith J.