

Judgment

IN THE EFATE ISLAND COURT
HELD AT PORT VILA
(Civil Jurisdiction)

Civil Case No. 2 of 2008

BETWEEN: CHIEF PETER MASONGOMAPULA of Siviri Village,
North Efate
Claimant

AND: EDDIE KALOWIA of Siviri Village,
North Efate
Defendant

Coram: Justice Eddie Karis
Justice Sam Marpakoa
Justice Joshua Harry

Clerk: Jona Mesao
Date of Hearing: 2nd June 2009
Date of Judgment 19th June 2009

JUDGMENT

Dispute we istap bifo long Kot ia emi concernem raoraon ova long chiefly title ia "Taripoamata" we emi originally blong Siviri village, emia long North Efate. Tufala parties we istap dispute ova long chiefly title ia emi, Chief Peter Masongomapula olsem Claimant mo Eddie Kalowia olsem Defendant.

BACKGROUND BLONG CASE

Efate Island Court ibin sitaon long Siviri village long 20th June 2005 mo handem daon decision blong chiefly title ia Taripoamata mo declaration ia iread olsem;

"Stat tedei, right blong title ia Taripoamata emi stap long hand blong Claimant (Masongomapula) folem bloodline blong Toamiala Taripoamata. Eddie Kalowia emi mas handem ova title ia iko long Claimant long period blong tri (3) manis taem. Tufala parti imas mekem reconciliation ceremony between tufala before ordination long niufala chief Taripoamata. Ino kat Oda blong kost. 30 days blong appeal"

Defendant Mr Eddie Kalowia iapil againsem decision ia blong Efate Island Court long Civil Appeal Case No.4 blong 2006, we idated 20th June 2005 mo faelem apil blong em long 22nd July 2005. Long 4th January 2008, Magistrate Court ihandem daon decision blong Civil Appeal Case No.4 blong 2006 mo long wan part blong Judgment ia, Senior Magistrate Steve R Bani iconcludum se;

"This appeal must succeed for two reasons. Firstly it became obvious that the Court below failed to make a decision on the evidence properly adduced before it and secondly, the Court had acted so imprudently, having regard to the manner in which members of the Court conducted themselves"

Ol Orders blong Judgment ia iread;

"The appeal is allowed. The Judgment of the Efate Island Court dated 20th June 2005 is quashed. This matter is remitted to the Efate Island Court to be tried afresh by a differently constituted Court. The Respondent shall bear the costs of this appeal to be fixed by the court failing agreement"

Long 29th October 2008, Chief Magistrate Stephen D Felix emi mekem Direction Orders long Civil Appeal Case No.4 blong 2008 mo long ol findings blong em afta we iharem Mr Daniel Yawah long behalf blong Chief Eddie Kalowia, emi mekem olgeta Orders ia;

"That the Efate Island Court proceeds on the 3rd of November to hear the Civil Case as directed by Order 3 of the Magistrate's Court in its judgment dated January 4th 2008. That the Island Court sitting on the 3rd November 2008 be constituted of three justices other than Justices Anne Carlot, Francis Aru, Thompson Andrew, Jimmy Meameadola, Kalkot Mormor, Raymond Marongoe and Lucy Sandy. That for reasons of security and cost, the sitting shall be at Port Vila at a time and place to be advised by the Island Court Clerk. This appeal matter is adjourned to the 5th of November 2008 for mention.

Folem Magistrate's Court judgment long namba 4th January 2008 mo ol direction Orders dated 29th October 2008, Court ibin sitaon long namba 2nd June 2009 long Port Vila mo Clerk iadvaesem Court long tufala leta we ikam long Claimant. First leta we Clerk i-informem Court long hem, emi leta dated 29th May 2009, we ikam long offis blong Jack I. Kilu Lawyers mo talem se follem Magistrate's Court Order long namba 24th September 2008 ibin ordarem (Order No.6) se bambae re-hearing blong chiefly title dispute blong Taripoamata mbae imas stap long Siviri village from reason se some long ol witnesses oli olfala tumas mo oli nomore save wokbaot strong blong stap kam atendem Court long Vila.

Mo narafala issue se emi blong katem daon cost blong transportation blong ol parties. Mo narafala leta dated 1st June 2009 we ikam long Dr Willie Tokon Medical Services Manager mo leta ia icertifaem se Mr Arthur Tamaro we emi main witness blong case ia blong Taripoamata emi wan patient we regularly istap atendem medical treatment long outpatient emia long Vila Central Hospital. Mo doctor iadvise se emi 95 years mo emi stap kasem treatment blong arthrosclerosis long spine blong em mo emi no fit blong emi stap travel ikam long Vila.

Defendant emi object mo emi talem se olgeta oli no agree blong Court ia iko sitaon long siviri village from during last Court sitting ikat evidence we ishoem se Justices oli stap toktok wetem ol frens blong olgeta mo stap kaikai wetem narafala party. Mo long issue

blong Arthur Tamaro olsem witness, Claimant emi shud save se wan olfala blong 95 years emi nomo fit blong stap kam long Court mo brain blong em inomo save function properly. Medical certificate we doctor imekem emi soem clear se Arthur Tamaro emi nomo fit. Claimant ishud changem witness ia. However, afta we Court iharem ol toktok blong Claimant folem tufala leta mo ol direction Orders we Magistrate's Court imekem, Court ia idecide long namba 2nd June 2009 se, emi more fair blong Court ia isitaon nomo long Vila blong determenem chiefly dispute ia long best interest blong tufala parites. Court iacceptem tu ol niu documents or evidences we tufala parties iwish blong faelem long Court before Court iproceed long trial. Long view blong Court, mifala iluk se witness Arthur Tamaro emi too old mo emi nomo fit blong kam long Court olsem we medical certificate blong doctor icertifaem. However, Court ia iaskem long Claimant blong imas changem witness ia.

Spokesperson blong Claimant, emia askem adjournem blong Court iconvene nomo long namba 3rd June 2009, from reason se mbae oli prepare gud bifo oli presentem case blong olgeta long next day, be defense oli object mo talem se, olgeta oli wastem tumas time mo expenses long ol costs mo time blong olgeta mo olgeta oli redi naowia blong proceed. Spokes person Mr Titus Taripu iaskem sapos Court isave allowem Claimant blong ipresentem history blong em. Court iacceptem request blong defense mo askem Claimant emi agree mo iproceed blong presentem case blong em.

CASE BLONG CLAIMANT

Bifo, Claimant emi presentem case blong emi, emi talem se history blong olgeta ia oli bin presentem finis long Marakinavata council blong ol chiefs long 3rd May 2003 mo long Efate Island Court long Civil Case No.19 blong 2005, long 20th June 2005. Mo same history nomo bakagen mbae mi presentem tedei. Mifala ino changem history blong mifala mo ol evidences blong mifala.

Claimant Masongo Mapula one (1) emi kat wan pikinini boy mo emi kam Masong Mapula 2. Masongo Mapula 1 emi ded long 1819 emia long record blong Missi Peter Milne. Masong Mapula 2 emi maretem wan woman nem blong em Lei Maki mo tufala ikat wan gel nem blong em Lei Mata mo wan boy nem blong em Tomastapangatang or sandwich we Missionary isendem em iko mo ded long Solomon Islands. Lei Mata (naika) emi maretem Toa Miala Taripoamata blong siviri mo ikat three brata, Toa Wia, Toa Miro mo Toa Tau. Toa Wia emi ded mo emi no kat pikinini. Toa Miro emi maret mo kat wan gel we nomo mo nem blong em Tourere we ol family blong em oli live long Moso tedei. Toa Tau emi maret mo ko stap wetem woman blong em long Emua mo ol family blong em oli stap long Emua tedei.

Toa Miala emi karem tittle ia Taripoamata from ol brata blong emi oli livim em mo ko stap wetem ol woman blong olgeta long Emua village mo Moso Island. Toa Miala Taripoamata mo Leimata tufala ikat wan gel we nem blong em Touloure. Touloure emi maretem Peter Akisi we emi blong ravega. Peter Akisi emi kat wan boy we nem blong em Arthur Tamaro mo tufala sisters blong em, emi Effie mo Vinota. Taem we Arthur Tamoro emi born long 1914, Leimata mo Toa Miala Taripoamata tufala iadoptem Arthur

Tamaro olsem pikinini blong tufala from tufala ino kat pikinini boy blong karem title ia Masong Mapula 3 mo Taripoamata we emi title blong pupu blong em, Toa Miala Taripoamata mo tu from Arthur Tamaro we emi papa blong Claimant emi stret pupu blong tufala. Arthur Tamaro Masong Mapula 3 emi maret mo kat 5 boys' mo 2 gels. Ol boys ia ikat Chief Masong mapula 4 we emi Claimant, Paul Arthur, Edwin Arthur, David Arthur, Kaltava Arthur mo tufala gel ikat Tou Mak mo Tou Fau.

Chief Masong Mapula 4 emi rightful Claimant blong title Taripoamata tru long ol name ia Toa Miala Taripoamata, Touloure mo Arthur Tamaro we emi papa blong claimant mo sem taem claimant emi adopted pikinini blong Toa Miala Taripoamata mo Lei Mata. Peter Akisi we emi pupu blong claimant emi ded long 1923 mo long 1927, Toulor, pupu woman blong claimnant mo Tourere gel blong Toa Miro tufala igivim title Masong Mapula 3 long Arthur Tamaro mo title Taripoamata long Kalosike Joseph Masenmantoga 3, we emi grand papa blong Defendant. Reson we oli kivim title ia long Kalosike emi from we long taem ia Masong Mapula 3 emi yang iet mo oli mas chosem wan man we emi mature blong save lukaotem pipol blong siviri kasem taem Masong Mapula 3 emi save karem title ia Taripoamata. Mo narafala reason from we Touloure mo Tourere tufala ino wantem Kalo Talang blong karem title blong chief Maripepe blong leadim pipol blong siviri from fasin blong em blong karem plante woman tumas.

Maripepe emi chief we emi lukaotem siviri village taem we ino ikat wan man emi karem chiefly title Masong Mapula mo Taripoamata. Hemia emi long laef time blong Touloure mo Tourere kasem we Masong Mapula 3 emi kasem title blong em mo Kalosike emi karem title ia Taripoamata. Long taem blong kivim title ia Taripoamata long Kalosike, papa blong em Joseph Suragas Masenmantoga 2 ino kat pig blong givim long pikinini blng em blong performem ceremony mo community blong siviri village oli givim pig long Kalosike Masenmantoga blong kilim. Pig ia siviri community ipem long Masta Louis Ross long Undine bay plantation mo price blong em long taem ia emi 8 pounds. Taem ia 4 man oli karem pig ia from emi hevi tumas. Stret title blong Kalowia emi Masenmantoga 4 be emi no Taripoamata. Long 1882, taem we ol pipol blong siviri village wetem ol nearby communities oli saenem agreement blong missionary emi protectem kraon blong olgeta, Toa Miala Taripoamata emi stap long siviri village finis from em tu emi saenem document ia be Masenmantoga mo ol pipol blong em oli stap yet long ravenga, emia antap long bus blong Paunangisu village.

Long side blong history blong Kalosike, olfala Masenmantoga 1 emi bigfala chief blong ravenga. Emi maretem Vitarik Pero mo kat wan boy we nem blong em, emi Masenmantoga 2, known olsem Suragas Joseph. Masenmantoga 2 emi maretem Lei Ntamate we emi daughter blong chief blong Elama Tongoltong mo Lei Sav Manu. Joseph Suragaas Masenmantoga 2 wetem Lei Ntamate tufala ikat two boys' mo wan gel. First boy blong tufala emi Kalserei we emi sik mo ided mo second boy emi Kalosike mo kat wan gel we nem blong em emi Toulolo. Ikat wan narafala gel we nem blong em, emi Touvapele be emi no stret pikinini blong Joseph Suragas. Kalosike emi maretem Mima mo tufala ikat wan gel we nem blong em, emi Rose mo emi maret iko long Tasiriki. Taem Mima emi ded, Kalosike emi maretem Ruta we emi kat three pikinini finsi bifo emi kam insaed long haos blong Kalosike we nem blong olgeta emi Tamara, Lei Pakoa mo

Lei Mata. Tedei Tamara emi ko bak mo live long Pele Island from emi save se emi no pikinini blong Kalosike. Afta long Ruta, Kalosike emi maretem Espela mo karem Kalowia, Toma, Lili, Lei Tap mo Lei Tare. Taem we Kalosike emi tekem title ia Taripoamata start long 1927, em wan emi save se title ia Taripoamata emi no blong em. Be tufala woman ia Touloure mo Tourere nao igivim long em. Plenty taem Kalosike emi stap talemaot toktok ia long ol meeting se emi no wantem karem title ia be tufala olfala woman ia nomo ikivim long em. Taem we Kalosike emi laef mo stat long 1927 kasem taem we emi ded, long 1988, emi neva appointem Eddie Kalowia or mekem wan ceremony blong Eddie Kalowia emi karem title ia Taripoamata from emi save se title Taripoamata emi no blong em.

Naowia kolosap seventeen yia nao afta long ded blong Kalosike, Eddie Kalowia emi wantem title ia Taripoamata, be why nao emi no save askem papa blong em Kalosike blong givim title ia Taripoamata long em. Toa Miala Taripoamata blong siviri village emi wan chief mo preacher mo em nao emi ko karem Masenmantoga 1 wetem ol man ravenga mo kam putum olgeta long wan ples we nem blong em Matanoaira emia bitwin 1885 mo 1888 mo long 1893, wan bigfala sickness ibreak out mo sam long ol man ravenga we oli stap long Matanoaira mo chief Toa Miala Taripoamata oli ded mo olgeta we oli laef oli move ikam long siviri village wetem Joseph Surangas mo oli ordainem em olsem Masenmantoga 2 wetem ol narafala chiefs long 1927.

Matanoaira emi ground blong chief Toa Miala Taripoamata mo long 1920, Lei Mata emi salem long wan man Pentecost we nem blong em, emi Wari long wan price blong 20 pounds. Mo mi wandem talemaot long honorable Court ia se, stret bloodline blong title ia Taripoamata emi blong Chief Masongo Mapula 4.

SUBMISSION BLONG CLAIMANT

Long submission blong Claimant, Claimant italem se long family tri blong siviri village ikat tufala chiefly title ia nomo ikat Masongomapula mo Taripoamata. Tufala chiefly title ia iblong ol stret bloodline blong siviri village nomo be in oblong Ravenga mo Elama. Mo Claimant italem se tufala chiefly title ia istap finis bifo ol missionary oli kam long Efate. Masongomapula 1 we em mo Maripepe tufala ikilim chief Masoeragi wetem ol pipol blong Makura we mifala irefer long em "diary blong Peter Milen of Nguna pages 183-184" ipassem title ia iko long Masongomapula 2 we iko ded long dip point long Ambrym bitwin 1893 mo 1913 taem we emi stap risivim triment long dip point hospital. Emia mifala irefer long Live book 4 we John Graham Miller iractem long page 50. Masongomapula 2 emi kat two pikinini boy mo nem blong tufala emi Thomas Tapangtang mo sista blong em, emi Leimata. Thomas Tapangtang or Thomas Tavangtang or Thomas Sandwich, emia same man nomo, emi ko ded long Solomon, mo mifala irefer long Live book 3 we John Graham Miller iractem emia long pages 54, 55 mo 56. Nao Leimata we em wan nomo istap emi entaetel long title ia Masongomapula.

Nao fes Taripoamata blong siviri village ikat 4 pikinini. Olgeta ia ikat Toa Wia we mi ded nomo long siviri village mo ino kat pikinini, Toa Miro imared mo ikat wan pikinini gel nomo we nem blong em, emi Tourere we imaretem William blong Moso Island. Mo

taem we man blong em ia William ided, Tourere emi maret ikam bak long siviri village. Toa Tau emi folem wan woman blong em mo iko long Emua mo ol family blong em oli stap long Emua tedei. Mo Toa Miala Taripoamata ia nao ikarem title ia. Hemia mifala irefer long history blong Masongomapula mo olsem wanem emi entaetel blong karem title ia Taripoamata page 1 emia long statement 3. Toa Miala Taripoamata imaretem Leimata mo tufala ikat wan gel nomo we nem blong em Touloure. Toa Miala Taripoamata blong siviri village iko karem ol family's blong Eddie Kalowia long Ravenga ikam daon long siviri village wetem Peter Akisi. Taem ia nao Peter Akisi imaretem Touloure mo emi kam insaed long family tri blong siviri village. Mo antap long emia Toa Miala Taripoamata ikivim smol pis kraon blong em Matanoaira long olgeta blong Raveng blong live long em.

Long ples ia raet blong chiefly title ia Taripoamata ino blong Ravenga mo Elama be emi blong siviri village nomo. Leimata ientaetel long Masongomapula istap taem man blong em Toa Miala Taripoamata ided, Leimata emi tukurau from title Taripoamata folem kastom blong Efate. Taem ia nao Leimata iholem tufala chiefly title ia Masongomapula mo Taripoamata. Nao long 1927, Touloure wetem help blong cousin blong em Tourere pikinini blong Toa Miro tufala ibin organaesem wan ordination ceremony mo tufala ibin givim chiefly title ia Taripoamata long Kalosike olsem caretaker long tingting se mbae title ia isave kam bak long ol stret owner blong em we emi Arthur Tamaro. Long sem taem ia oli ordainaem tu Aurthur Tamaro olsem Masongomapula 3. Long namba 5th March 2003, ibin kat wan ordination ceremony bakagen we Masongomapula 3 imekem taem ihandem ova title ia Masongomapula iko long Peter Arthur olsem Masongomapula 4. Long sem taem ia Masongomapula 4 iordeinem some long ol smol smol chiefs blong em long siviri village.

Claimant emi mekem reference long book blong "*Peter Milne long page 183 -184, Nguna and Efate; title Peter Milne of Nguna*", "*185-186 Speedy Retribution: Peter Milne of Nguna*", Reference long "*page 102, paragraph 4 Live Book 5, John Graham Mille, 1893*", "*page 54,55 mo 56 Live Book 3, of John Graham Miller, 1910*". Claimant iwandem submitim tu se long 5th March tufala chief representative blong Vaturisu Council of Chiefs, Natamatesaru blong Lelepa mo Raymond Marongoe blong Emua tufala nao iordainem Peter Arthur olsem chief Masongomapula 4 mo tu long same day chief Masongomapula 4 emi mekem ordination blong ol smol, smol chiefs blong em.

Olgeta chiefs ia ikat Atavi Masenawota (Kalengoro Steele), chief Masewia (Edwin Arthur), Atavi Tavi Masoe (Kalsau Steele), chief Tarisongololo (Philip Shem) mo chief Manauvea (late Robert Obed). Claimant iwandem talem bakagen se history timeline blong mifala istap confirmem bakagen se history blong mifala istart long 1800 finis, bifo taem missionary istart blong mekem ol wok blong em long Efate. History blong mifala iconfirmen tu se Masongomapula blong siviri village emi stap mekem wok finis long taem ia from missionary irecordem mo Toa family tu oli stap finis long siviri village.

Mifala iwandem submit tu, se witness blong Defendant namba 1 Eddie Kalowia emi no save conectem em, wetem family tri blong em. Emi no save meaning blong siviri, nem blong stone blong siviri, nem blong pasis blong siviri, nem blong tapu ples blong siviri

mo emi no save farea we em mo papa blong em igrow up long em. Rosbel we emi fes born blong Kalosike mo ol stret nephew blong Eddie Kalowia we oli laef istap tedei oli no witness blong em. Mifala iwandem submit se ol witness blong Eddie Kalowia everyone blong narafala village. Mifala iwandem submit tu se why papa blong Eddie Kalowia, chief Kalosike emi no handem ova title Taripoamata iko long Eddie Kalowia taem emi laef yet. From wanem Kalosike Taripoamata ineva raorao long Masongomapula 3 from emi kam live long nasara blong em mo emi caretaker long chiefly title ia Taripoamata.

Arthur Tamaro mo brata blong em James Tapalo tufala ineva raorao wetem Kalosike Taripoamata from title ia we iblong tufala, folem respect we tufala ikat long em from emi bin glad mo acceptem blong upholem wok ia olsem caretaker blong chiefly title ia Taripoamata. Long taem blong ordination, chief Taripoamata emi sidaon long chair mo putum leg blong em long stone. Emia iminim se chiefly title we iholem emi no blong em. Chief Arthur Tamaro iconfirmem form em tu oli bin ordainem em tu long taem ia. Arthur Tamaro ino sitaon long wood olsem statement blong Eddie Kalowia italem. Long kastom blong Efate, taem oli ordainem wan chief, mbae ineva sidaon long wan stone mo stanap long wan narafala stone.

Mifala family blong Masongomapula 3 mo 4 ineva agensem Eddie Kalowia from title ia kasem taem em m family blong em istap agensem mifala ol natakok blong siviri village from title blong mifala Taripoamata. Mifala iwantem some long em se emi wan namenak. Long kastom blong Efate, taem oli ordainem wan chief, mbae emi neva staon long wan stone mo stanap long wan narafala stone. Taem yu pulum wan man iko raon long wan ded bodi blong wan chief, emi minim may be itekem ples blong em wan day or no? Even sipos yuk o andanit long ded body blong em we imo hevi, be emia tu isave kam may be yes or may be not? Mifala iwandem submit se ol chief oli jusum ol man blong tekem place blong olgeta folem kind humble heart blong man. Mifala iwandem talem tu se Masongomapula we spokes man blong Eddie Kalowia istap tokbaot emi blong Pele Island (*refer long page 176-177, Peter Milne of Nguna*).

Mifala iwandem talem tu se witness namba 2, blong defendant Mr Tony Firiam emi no save talem stret nem blong ol chiefs we oli present long taem we chief Manabangarasikai ipulum hand blong Eddie Kalowia iko raon long ded body blong late Kaloskie Taripoamata. Witness ia italem se emi luk Morres Manaruru long taem ia, be Claimant iwandem talem se Morres Manaruru emi ded finis long July 1986, two yia bifo we chief Taripoamata ided long 1988. Witness imentionem tu chief Manasakau, mifala isubmit se chief ia tu ided long taem finis. Mifala iwandem submit tu se bisnis blong storian long chiefly title emi no blong public iharem emi blong haos or family nomo ikat raet long em. Witness ia tu ino so sure wanem ia chief Taripoamata Matua mo chief Taripoamata Tokai Tangele tufala ireign.

Witness 3 blong defendant Mr Manapanga blong Malafao emi no gat wan pruv se Peter Akisi ipem wan pis kraon long Malapoamata long Leintamate blong Elama mo Joseph Masenmantoga blong Ravenga. Malapoamata ino wan bigfala malala we inav blong salem mo ino stret folem kastom blong wan chief blong salemat malala blong em.

Malapoamata ia nao chief Masongomapula 4 istap live long em tedei. Masongomapula 4 iko askem permission blong go lukaot stone blong bekem laplap blong ceremony blong ordination from ples ia nomo mifala istap ko tekem ol stone long em.

Witness 4 blong defendant Mr Charley Obed, emi usum different statement long trifala Court case. Hemi usum tu different chiefly title olsem, Monomono mo Masemaduruvakalo, emia isoem se witness ia emi no honest long ol toktok blong em.

Witness 5 blong defendant Mr Takurua Taurasongi Dick emi no save storian or history blong chiefly title ia Taripoamata. Witness ia emi wan pikinini we igrow up olbaot, emi no even save stret history blong em. How nao emi save history blong narafala chief? Witness ia italem se Eddie Kalowia ikleimem title ia follem Leisavimanu we emi wife blong bigfala chief blong Elema, chief Tongoltong. Leisavimanu em Kupanakara. Manatuatuanatokolau (papa blong Tongoltong) ino save go mekem areinjem wetem Taripoamata Tokai Tangele from long taem ia itaem blong tribal war. Statement blong ol narafala witness italem se Taripoamata Tokai Tangele ided long tribal war, be taem long cross-examination witness ia ise emi no save.

Mifala iwandem submit tu se history blong Eddie Kalowia isoem se great grandpapa blong em ikam long Ravenga (chief Masenmantoga 1mo 2 bitwin 1885 mo 1888). Great grandmama blong Eddie Kalowia, Leisavimanu imaretem bigfala chief blong Elama (kupe ni nakara). "Kupe ni nakara" iminim se taem yu sakem iko ifoldaon, afta igrow bigwan finis, yu no save pulumaot mo kam planem long ples ia we oli bin sakemaot em long em. Istap confemem se great grandmama blong Eddie Kalowia, Leisavimanu mo grandmama blong em, Leintamate tufala ia inatatok blong Elama. Arthur Tamaro istap confemem se Joseph Surangas Maseimantoga 2 nao istap tale mol storian ia long em.

Mifala iwandem submit tu se Eddie Kalowia emi no presentem same history blong em long ol last previous court sittings blong mifala aboutem dispute ia. Emi stap usum ol different history or make up history blong stap challengem mfiala long em. Mifala iwandem submit se ol history mo family tri we Eddie Kalowia istap presentem naowia long Island Court sitting ia oli no true.

Long conclusion blong Claimant, mifala iwandem submit se reason why we Masongomapula emi entaetel long nem ia Taripoamata emi from se emi karem tru long great grandfather blong em, Toa Miala Taripoamata mo wife blong em Leimata, we pikinini blong tufala Touloure we emi only pikinini mo emi mama blong Arthur Tamaro (Masongomapula 3 we emi papa blong Peter Masongomapula 4). Hemi stanap long nasara blong Taripoamata Toa Miala we emi great grandpapa blong em, blong stap cleimem ol raets blong Taripoamata. Long 1985 ikam siviri village council nomo mo Arthur Tamaro Masongomapula 3 oli stap mekem ol wok blong village ko kasem yia 2003 taem we oli ordeinem Peter Masongomapula 4 mo ol smol smol chief blong em. Long 1985 ia late Kalosike inomo save mekem wok from emi blind. Eddie Kalowia ineva stap long siviri village taem we papa blong em isik. Late Kalosike emi ded long hand blong mifala long rod. Eddie Kalowia emi jes kam long nekis morning.

Tru long submission ia mifala iwandem remindem honorable Court ia se long Civil Case No. 4 of 2006, Magistrate Kot ibin mekem wan oda se matter blong title blong Taripoamata emi tired afresh we emi save minim se mbae ikat wan niufala hearing, be ino minim se mbae ikat niu evidences. Mifala ibilig strong se history blong mifala emi tru from se mifala ikat ol true eveidens we missionary irecordem we iconectem gud history mo family tri blong mifala. Mifala igat Arthru Tamaro we emi laef mo emi only eye witness mo emi the only witness we istap long trifala Courts we ipass finis. Arthur Tamaro mbae emi kat 95 years old long this coming 14th July 2009.

CASE BLONG DEFENDANT

Defendant tru long spokesperson blong em, Mr Titus Taripu emi talem se Eddie Kalowia istap claimem chiefly title Taripoamata blong Maapoa-mata, siviri village tru patrilineal mo matrilineal bloodline blong papa mo ol pupu blong em bifo ikam follem kastom blong north Efate. Claimant italem se mi stap claimem title ia we emi custom property blong papa blong mi chief Kalosike Taripoamata blong siviri village. Chief Taripoamata Matua emi paramount chief we emi kat namarakiana mo emi kat wan pikinini boy we nem blong em, emi Tokai Tagele mo emi kam chief Taripoamata afta long papa blong em.

Chief Taripoamata Tokai Tagele imaretem Pilerumara we emi daughter blong chief Manauvea blong Malatuele mo tufala ikat 1 pikinini gel nomo we nem blong em, emi Leisavmanu. Leisavmanu imaretem Napuksere Tongoltong mo tufala ikat 2 pikinini gel bakagen mo nem blong tufala emi Leinavakalo mo Leintamate. Leinavakalo imaret iko long Pele Island mo emi no kat pikinini. Leintamate imaretem Joseph Masoemantonga mo tufala ikat ol pikinini ia Toufapele, chief Taripoamata Kalosike mo Toulolo Kalserei. Chief Taripoamata emi maret three times.

Fes woman blong em emi Mima mo tufala ikat wan gel we nem blong em, emi Rospel mo afta Mima emi ded. Second woman blong em, emi Ruth be tufala ino kat pikinini. Tufala iadoptem Tamara, Leimata mo Leipaoa, afta Ruth emi ded. Namba three wife blong chief Taripoamata emi Isobel mo tufala ikat ol pikinini ia, Leisongi, Lili, Leitap, Eddie Kalowia Taripoamata, Tom mo Leitare. Mi Eddie Kalowia Taripoamata nao mi first born blong late papa blong mi Chief Kalosike Taripoamata, blong Malapoamata, siviri village. Mi stap claimem chiefly title nem ia we emi sole custom property blong ol fore fathers blong mi, chief Taripoamata wetem ol custom property blong em olsem Farea, Malala, Toko mo Namarakiana blong em we istap long map olsem customary jurisdiction blong em. Chief Taripoamata emi wan bifala chief we plante chief blong North Efate oli save long em bifo ikam. Long custom administration blng Paramount chief Taripoamata we mi stret bloodline blng em ikat assistant chief or Atavi we emi Atavi-Tari.

Ol under Chief blong em ikat, Chief Tarisongololo, Chief Maripepe, Chief Marimonomono, Chief Taripoamara, Chief Manauvea, Chief Masavia, Chief Maoemara, Chief Mariki Kaii, Chief Msemanurua, Chief Masemata, Chief Mase Manduru Vakalo. Insaed long namrakiana blong Chief Taripoamata farea blong em farea-Waarua, emia iminim bigfala nakamal, we emi blong bigfala chief we emi Malapoamata. Ikat too ten

(10) smol farea insaet long namarakiana we emi blong ol smol smol chiefs blong em, ikat farea 1 emi Malapat, farea 2 emi Magarisu, farea 3 emi Malakessa, farea 4 emi Malapoasale, farea5 emi Tanomiala, farea 6 emi Malaraua, farea 7 emi Savasere, farea 8 emi Malatau, farea 9 emi Malallilo Vakalo mo farea 10 emi Malakarie. Farea Malapoamata emi bigfala farea blong chief Taripoamata mo Atavi-Tari mo chief Marimonomono. Farea Malapat emi blong chief Maripepe, farea Magarisu emi blong chief Tarisongololo, farea Malakesa emi blong chief Masavia, farea blong Malapoasale emi blong chief Masoemara, farea blong Malakarie emi blong chief Masemanurua, farea blong Tanomiala emi blong chief Taripoamara, farea blong Malatau emi blong chief Masemanta, farea blong Malarua emi blng chief Manuvea, farea blong Malalolovakalo emi blong chief Mase Manu Duru Vakalo mo farea Savasere emi blong chief Mariki kai.

Chief Taripoamata stret bloodline blong em, emi papa blong mi we emi been chief Taripoamata sixty one (61) yia stat long 1927 kasem 1988 taem emi ded. Chief Maripepe emi Kaltakae Morris mo Chief Tarisongololo emi Philip, olgeta chiefly titles we oli foldaon istap ikat, Masavia, Masoemara, Masemanurua, Masemata, Mariki Kai mo Taripoamata. Chiefly title Manuvea, Chief Masongomapula ibin ordeinem long Robert blong Emua village. Insaed long namarakiana blong chief Taripoamata ikat tu ol tapu ples olsem Noai-Mura, Malatia, Varea Napang-Kaniana.

Chief Taripoamata Tokai Tagele emi stap reign oslem chief, ibin kat wan tribal war between ol pipol blong siviri village mo ol pipol blong Malafau village. Long tribal war ia chief Taripoamata Tokai Tagele ibin kasem injury we imekem se emi ded. From we emi no kat pikinini boy insaed long bloodline blong em blong save tekem ples blong em, mekem se nem ia istap nomo long wife blong em Pileumara olsem Tukurau Taripoamata folem custom blong North Efate.

Only daughter blong Chief Taripamata Tokai Tagele, Leisavmanu imaretem Chief Tongoltonga Napuksere blong Elama mo tufala ikat 2 gel bagaken we nem blong tufala emi, Leinavakalo mo Leintamate. Follem stret custom blong North Efate sapos wan chief ino kat pikinini boy automatically gel blong em ikat full customary ract ova long title ia mo ol property blong em. Leinavakalo ino kat pikinini mo Leintamate imaretem Joseph Masomantonga. Long taem we tufala imaret olfala woman Leisavmanu italem long Joseph Masoemantonga se, yu maretem gel blong mi be yu mas stap long siviri village nomo from we kraon blong mifala ibigwan tumas we istap long siviri village motu chiefly title nem ia Taripoamata emi blong mifala, sapos yutufala ikat wan boy, mbae yutufala ikivim title ia long em.

Taem papa blong mi Kaloskike iborn long 1906, long siviri village, ol pipol blong siviri village oli wantem blong papa ikam chief. Follem toktok we papa italem long mi se emi refuse blong kam chief long that taem ia, afta emi ko wok long wan ship long six (6) manis. Afta emi ko wok long Port Havannah, long taem ia Chief blong Moso, Chief Manasakau iko lukim em blong emi mas tekemap responsibility olsem chief Taripoamata. Long 27th September 1927, Chief Taripoaliu Suasavi Napau-Ni-Manu ikam long siviri village mo mekem ordination blong papa blong mi Kalosike ikam chief Taripoamata, Paramount chief blong namarakiana blong siviri village. Long taem blong

ordination long 1927, chief Taripoaliu iordeinem tu, Arthur Tamaro, we emi papa blong Claimant, ikam Chief Masongomapula.

Long taem blong ordination papa isitoan long stone mo putum leg blong em long stone taem Chief Taripoaliu iordeinem em. Ordination stone or Toko blong Chief Taripoamata Kaloskie, Paramount chief istap long ples blong ordination kasem emi ded. Be long ordination blong chief Masongomapuala, emi sitaon long wan wood. Hem ino kat stone iexist long taem blong ordination blong em. Papa blong mi chief Taripoamata ireign olsem wan Paramount chief long namarakiana blong em ova logn 60 yia mo emi pass away long 1988. Long taem blong funeral blong papa blong mi, Chief Taripoamata ibin kat wan custom ceremony ibin tekem ples.

Custom ceremony process ia, chief Manapanga-Ara-Sikai blong Malafau village ibin pullum mi Eddie Kalowia iko raon long body blong late papa blong mi, Chief Taripoamata Kalosike. Ol chief we oli agree mo witessem custom ceremony ia, ikat chie Manapanga Ara Siaki blong Malafau, Chief Marimelu, Matuele blong Moso, Marongoe blong Emua, Manlaewia blong Paunangisu, Taripoamara, Matakoro Marata Matakoro Liu, chief Arthur Masongomapula mo Chief Alikau David.

Ol chief ia oli bin stanap raon olsem wan circle taem chief Mangapaga Ara Sikai ipulum hand blong mi mo ko raon long body long papa blong mi. Which emia iminim se mbae mi rightfull person blong tekem ova chiefly title Taripoamata we mi stret bloodline blong em, be chief Manapanga Ara Sikai Esrom mbae ihollem chiefly title ia istap kasem wan day taem mi ready mbae emi kivim long mi. From long 1988 taem papa ided mo nem blong papa istap wetem chief Esrom Manapanga kasem 2004 finis mo mi ko performem wan custom ceremony blong tekem bak chiefly title ia Taripoamata long chief Manapanga wetem plan mo preparation blong ordination blong mi.

Afta we mifala irespectfully notifaem chief Peter Masongomapula we emi stap lukaotem siviri village about ol plans mo preparation blong ordination mifala isurprise blong luk wan Exparte Order we ikamaot mo banem mifala blong no proceed wetem ordination. Long taem ia nao ol family oli just aware se ikat wan dispute long chiefly title Taripoamata we emi blong mifala. No mata long Order ia follem stret custom blong North Efate, mi bin follem process blong custom blong tekemaot chiefly title Taripoamata long late papa blong mi and today customarily chiefly title Taripoamata istap wetem mi. Mi stap askem this honorable court blong lukim save raet blong mi ova long chiefly title Taripoamata we emi sole property blong ol fore-fathers blong mi mo papa blong mi Chief Kalosike Taripoamata, farea, Malala, Toko mo namarakiana blong em olsem we istap bifo ikam kasem tedei. Mi stap askem tu long tisfala honorable court blong tekem wan raet decision mo quashem Efate Island Court Judgment long Civil Case No.8 blong 2008.

SUBMISSION BLONG DEFENDANT

Defense iwandem submit se Chief Taripoamata emi Paramount chief blong namarakiana blong siviri village. Long taem blong ordination long 1927, Arthur Masongomapula 1 emi sitaon long mat, therefore emi signifaem em se emi wan smol chief nomo. Kalosike

Taripoamata ineva talem aot long meeting se Eddie Kalowia mbae itekem ples blong em from emi bisness blong em wan long haos. Toa Tau we oli putum long family tri blong olgeta mo we oli talem se family blong em istap long Emua, witness namba 1, Arthur Tamaro italem se em nao emi, Manlaesinu be Claimant chief Peter Masongomapula italem se Michel Daniel we olgeta ikamaot long em. Ol statement ia iputum doubt from Michel Daniel emi no bloodline nor family blong Manlaesinu. Folem document evidence Annexure EKT-10, we mifala iattachem wetem defence statement blong mifala signed by Kaltutak Aniel Silas, member blong Manlaesinu family mo Chief Raymond Marongoe blong Emua village we oli talem se papa blong Manlaesinu emi Sulae Manlaesinu. Mifala iwandem submit tu se ino kat any evidence we ishoem long Court ia about existence blong Toa Miro long Moso blong prufum se family tri blong Claimant emi wan tru family tri mo tu oli no save nem blong mama blong Tourere we oli taem se emi grand mama blong olgeta. Follem chieftenship role, evidence we oli kivim se who istap lukaotem village blong siviri bifo Kalosike Taripoamata, witness 1 mo witness 2 ino save talem.

Ol toktok blong olgeta ivery confusing motu oli no talemaot long Court sapos Tom Toa Miala Taripoamata emi bin lukaotem siviri village we icontradictim history blong olgeta bakeken mo tu ishoem clea long toktok blong olgeta se papa blong Touloure, Toa Miala ineva chief Taripoamata. Claimant mo family blong em oli neva mekem any attempt blong tokbaot chiefly title Taripoamata, taem chief Kalosike Taripoamata ilaef yet mo even long taem blong ded blong em. Oli no save Navata we emi tru custom identity blong custom chiefly title blong Taripoamata long siviri village. Court emi observem mo notem tu se witness Arthur Tamaro mo witness 2, Steel Tapalo tufala ibrata, pikinini blong tufala emi Claimant Chief Peter Masongomapula. Ino kat any independent witness we iwitnessem history blong claim long olgeta long Court ia.

Witness namba 1 blong Defendant, Mr Michael Matoa blong Nguna Island emi testify mo talem se between 1982 mo 2002 emi bin stap wok olsem Vanuatu Cultural Centre Field Worker mo wok blong em iblong recordem ol custom stori long side blong custom, culture mo tradition blong yumi mo preservem blong oli no lus. Hemi testify mo talem se emi remember s long April 1996, emi bin ko long siviri village folem invitation we emi receivim long olfala chief Arthur Masongomapula. Hemi talem se emi recordem voice blong chief Arthur Masongomapula long 24th April 1996. Long taem blong interview Chief Arthur Masongomapula ibin talem long em se title ia Taripoamata mbae samtaem may be mbae oli ordainem Kalowia long em. Ol toktok we witness ia irecordem, witness italem se emi no forcem Chief Masongomapula blong itoktok, be emi toktok voluntarily.

Witness italem tu se emi bin tekem some photographs long taem blong interview. Ol photos ia oli marked EXHIBITS 3, 4 mo 5 mo tendarem iko long Court. Exhibit 3 emi shoem Chief Masongomapula and Michel Maota, Exhibit 4 ishoem Chief Masongomapula mo Eddie Kalowia long grave blong chief Taripoamata Kalosike mo Exhibit 5 ishoem Chief Arthur Masongomapula mo Michael Matoa (witness). Ikat wan narafala EXHIBIT marked 6 we emi wan audio tape, mifala itendarem tu long Court emi wan recording we witness ia imekem long namba 24th April 1996, taem emi stap recordem voice blong Chief Masongomapula mo witness italem se emi tru mo stret voice

blong Chief Arthur Masongomapula. Witness italem tu se from em (witness) emi blong different place mo ol toktok we Chief Arthur Masongomapula emi talem, emi bilivim se oli ol true toktok everyone.

Witness namba 2 blong Defence Eddie Kalowia emi stap confirmem bakagen nomo storian we emi talem long presentation blong em se, emi fes born son blong stret bloodline blong papa blong em chief Kalosike Taripoamata, we emi Paramount chief blong siviri village. Emi talem se emi claim tru long papa blong em Chief Kalosike Taripoamata iko long Leintamate we emi mama blong papa blong em then iko long Leisavman we imama blong Leintamate afta iko long Taripoamata Tokai Tagele we ipapa blong Leisavman mo iko long Taripoamata Matua, papa blong Taripoamata Tokai Tagele. Taripoamata Tokai Tagele imaretem Pilerumara blong Malatuele mo tufala ikat wan daughter nomo we nem blong em Leisavmanu. Leisavmanu imaretem Tongoltong Napuksere blong Elama mo tufala ikat 2 gel, Leinavakalo mo Leintamate. Leintamate imaretem Joseph Msenmantoga blong Ravenga mo tufala ikat Touvapele, Kalosike, Toulolo mo Kalserei.

Witness ia iconfirmem bakagen se chief Kalosike imaret three taem, mo nambatri maret blong em imaretem Isobel mo ibornem em olsem first born son. Witness ia iconfirmem bakagen se Chief Taripoamata emi wan Paramount chief mo emi kat ol smol smol chiefs blong em mo oli kat ol fareas blong olgeta. Witness itestifae mo talem se emi neva harem se papa blong em imentionem wan nem olsem Toa Miala Taripoamata. Hemi talem se taem we Tokai Tagele emi ded, ikat Maripepe ilukaotem siviri village afta taem we olfala Talang ikam bak long Santo emi lukaotem village bakagen afta Kalsosike Taripoamata itekem ova.

Witness namba 3 blong defence, Tony Firiam italem emi confirmem bakagen se Taripoamata emi paramount chief. Witness ia talem se grand mama blong em Toufapele we emi sista blong Kalosike Taripoamata. Emi talem tu se Masongomapula emi wan smol chief nomo. Emi talem se Chief Taripoaliu emi kam mo ordainem Apu blong em Kalosike ikam Taripoamata. Emi confirmem bakagen se Eddie Kalowia emi first born soon blong Chief Kalosike Taripoamata. Emi confirmem bakagen se afta we Taripoamata Tokai Tagele emi reign, afta emi Maripepe mo afta long em, emi Talang.

Witness namba 4, Chief Manapanga, emi testifae mo talem se, emi born mo growap long siviri village. Emi confirmem bakagen se Eddie Kalowia emi first born son blong Kalosike Taripoamata mo emi talem se emi no harem se ikat wan narafala family bakagen blong Taripoamata we iexist. Witness ia iconfirmem se papa blong em Esrom Manapanga nao iholem hand blong Kalowia Eddie iko raon long ded body blong Chief Kalosike Taripoamata. Witness italem tu se long taem ia, Chief Arthur Masongomapula tu emi bin stap tu long taem ia wetem witness namba 2 blong Claimant, Steel Tapalo. Emi talem tu se Touloure papa blong em, emi Tomatoma mo emi wok olsem wan teacher. Hemi se emi neva harem se ikat family Toa long siviri village, Emua mo Moso Islalnd.

Witness 5, Chief Mase Manuduru Vakao Charley Obed emi confirmem nomo se chiefly title we emi tekem emi wan Maau or custom warrior blong Chief Taripoaliu mo emi base long siviri village wetem Chief Taripoamata. Hemi talem se Taripoamata blong siviri village emi kat custom tie wetem chief Taripoaliu blong Nguna Island. Hemi talem se Eddie Kalowia emi tru bloodline blong Taripoamata blong siviri village. Hemi stret folem custom blong North Efate taem Taripoamata Tokai Tagele ided nem iko daon long gel blong em Leisavmanu, afta long Leisavmanu ipassem iko long daughter blong em Leintamate, mo afta Leintamate ikivim iko long son blong em Kalosike.

Witness 6, Chief Takurua Taurasongi Dick emi talem se emi blong Tanoliu village mo emi growap long Moso Island bifo oli move iko long Tanoliu long 1927. Hemi talem se emi born aot long Laklosaf we emi stret brata blong Tongoltong we papa blong tufala emi Manaduadua Natokolao, we emi bigfala chief blong Elama. Hemi talem se long custom blong North Efate ol pikinini blong ol bigfala chief oli no save maret olbaot, pikinini blong ol big chief oli maretem nomo ol pikinini blong narafala big chief.

Hemi talem se folem custom pratice chief Tongoltong we emi pikinini blong bigfala chief Manaduadua Natokolao blong Elama imaretem Leisavmanu we emi pikinini blong bigfala chief blong siviri village we emi Chief Taripoamata Tokai Tagele. Mo witness ia iconfirmem bakagen se Leisavmanu emi stret daughter blong Chief Tokai Tagele. Hemi confirmem bakagen se folem stret custom blong North Efate blong Leisavmanu iholem title ia Taripoamata mo pasem iko long daughter blong em Leintamate mo afta Leintamate ikivim iko long son blong em Kalosike Taripoamata.

Long conclusion, mifala iwandem submit bakagen se long 2004, Eddie Kalowia ibin mekem wan public custom ceremony iko long chief Manapanga blong Malafua mo tekem bak title ia Taripoamata. Mifala iwandem submit mo talemaot long Court ia se dispute blong Claimant ikam nomo taem we ikat raorao long ol narafala issues arising long village blong olketa mo mekem se Defendant imuvaot long siviri village mo ko live long narafala area.

Wetem ol toktok mo evidence we oli appear long tisfala hearing, ipruvum probability beyond reasonable doubt se Defendant Kalowia Eddie emi tru bloodline blong Paramount chief Taripoamata blong siviri village. Mo Chiefly title Taripoamata, Farea Malapoamata, Toko mo every other property long custom we ikat raet long em tru long title ia oli custom property blong em. Therefore mi stap askem long this honorable Court ia blong declarem Defendant Eddie Kalowia oslem rightful owner blong chiefly title ia Taripoamata.

LAWS

“Existing Law”

Article 95 (3) provides that customary law shall continue to have effect as part of the law of the Republic of Vanuatu.

“Village and Island Courts”

Article 8 (5) of the Constitution of the Republic of Vanuatu provides that; Parliament shall provide for the establishment of Village or Island Courts with jurisdiction over customary and other matters and shall provide for the role of Chiefs in such Courts.

“Application of Customary Law”

Section 10 of the Island Courts Act, CAP 167, of 1983 provides that; subject to the provisions of this Act an Island Court administer the customary law prevailing within the territorial jurisdiction of the Court so far as the same in not in conflict with any written law and is not contrary to justice, morality and good order.

ISSUE BIFO LONG KOT IA

After we Court iharem olgeta toktok blong Spokesperson blong Plaintiff Mr Kennedy Kalfau mo olgeta witness's blong em mo afta we iharem tu ol tokok blong spokesperson blong Defendant Mr Titus Tariпу mo olgeta witness's blong em, Court iidentifaem olgeta issues ia nao blong iansarem.

- Hao nao wan man isave iinheritim wan custom property olsem wan chiefly title under long custom?
- Wanem custom fasin nao man ia imas follem blong inheritim chiefly title ia?
- Who nao emi stret man under long custom rules blong iinheritim custom property ia?

COURT FINDINGS

While Court emi mindful long wanem we Constitution italem long Article 95 (3), 8 (5) mo section 10 blong Island Courts Act CAP 167, Court ia emi redi nao blong applaem olgeta relevant customary rules blong helpem em blong solvem dispute ia. Long taem we ikat wan complaint most long ol taem nao ikat denials we narafala party isave mekem againsem wan statement blong wan complainant and sapos iolsem, mbae Defendant nao emi must oltaem blong mekem defence blong em tru long response mo ol evidences we mbae emi produisum bifo long Court. Long view blong Court ia iluk se, sapos ikat denials long wan statement, then tufala parties imas kivim opportunity blong provum mo disprovum all allegations ia mo producim evidences bifo long Court.

Long case blong Claimant, long family tri, Court ifaenemaot se Masongo Mapula 1 emi kat wan pikinini boy we nem blong em Masongomapula 2. Masongomapula 2 emi maretem wan woman nem blong em Leimaki mo tufala ikat wan gel we nem blong em Leimata. Leimata emi maretem Toa Miala Taripoamata mo tufala ikat three (3) pikinini. Olgeta pikinini blong tufala ikat Toa Wia, Toa Miro mo Toa Tau. Toa Wia emi ded mo emi no kat pikinini. Claimant emi no establishim any evidence blong soem long Court ia,

se Toa Wia emi ded long wea ples mo oli berem em long wea. Court emi interest more long pikinini ia Toa Miala Taripoamata we long family tri Claimant isoem se emi maretem Leimata mo tufala ikat wan gel we nem blong em, emi Touloure. Touloure emi maretem Peter Akisi we emi blong Ravega village mo tufala ikat three (3) pikinini. Trifala pikinini ia emi Arthur Tamaro we emi wan boy mo Effie mo Vinota emi tufala gel. Statement ia ol witnesses blong Claimant oli confirmem taem oli stap testified long Court.

Taem Arthur Tamaro emi born long namba 14th July 1914, Leimata mo Toa Miala Taripoamata tufala iadoptem em oslem pikinini blong tufala from we tufala ino kat pikinini boy blong karem tufala title ia Masongomapula 3 mo Taripoamata. Court ia ifaenemaot se chiefly title Masongomapula mo chiefly title Taripoamata iblong two different tribes. Question we istap nao se, hao nao, Arthur Tamaro isave inheritem tufala chiefly titles ia tugeta? Long custom ikat custom rules mo practices we ol chief's blong village oli save identifiaem mo usum blong save applaem long situation olsem. Long view blong Court ia, Arthur Tamaro we emi adopted pikinini mo only pikinini boy blong Peter Akisi mo Touloure emi no kat raet under long custom blong save inheritem title ia Taripoamata.

From title ia Taripoamata, emi blong tirbe blong Taripoamata nomo. Mo ol descendant's blong Taripoamata nomo oli kat raet long em. Though, Leimata emi maretem Toa Miala Taripoamata, be long custom Leimata emi kat choice blong priority base long custom, blong decidem hao nao emi mas mekem decision mo pasem tufala title ia or whether blong mainteinem Masongomapula we emi stret mo pure bloodline blong Masongomapula Nawi then pasem title ia Taripoamata iko bak long stret tribe mo origin blong em? Leimata emi no kat raet long custom blong givim title ia Taripoamata iko long Arthur Tamaro. Leimata, Paramount raet we emi kat under long custom iblong make sure se title blong papa blong em, emi mas exist mo pass on iko long ol descendants blong tribe blong Masongomapula.

Long chiefly title ia Taripoamata, Court iharem evidences we witness namba 1 blong Defendant Michael Matoa, i presentem long Court mo tu oli submitim ikam wan audio cassette olsem wan Exhibit marked "6" mo emi confrimem se chiefly title ia Taripoamata emi completely blong wan narafala tribe. Evidence ia Claimant emi no disputim nating, Claimant emi base mo long ol storian blong ol Missionary long 1800s mo ol records blong previous Court sittings. In saed long audio cassette ia, ikat evidence we ishoem se emi voice blong Chief Arthur Masongomapula blong siviri village we oli recordem long namba 5th October 1999. Court ifaenemaot tu se most long ol evidences we Claimant istap producum bifo long Court ia, oli ol storian we Peter Milne mo John Graham Miller iractem long 1800s.

Court ia emi kat difficulties blong emi weiem ol evidences ia from emi kat doubt long ol storian ia we tufala Missionaries ia istap recordem long taem ia. Hemia Court istap refer long "Live Book 3 & 4, John Graham Miller & Diary Peter Milne of Nguna". Firstly, Court ino so sua whether or not ol storian ia oli tru. Secondly, whether man we emi stap storian long tufala Missionaries ia emi stap talem true toktok or toktok nomo for the sake

se Missionary iaskem em blong italem stori about ples ia blong emi raetem daon long book.

Court ia emi think se long taem ia we Missionary emi stap raetem ol stori ia, emi communicate wetem wan man we knowledge blong em emi good mo emi save communicate wetem same language we Missionary ia isave long em. Court emi understand tu se long taem ia Missionary icommunicate nomo wetem olgeta we em isendem olgeta iko skull olsem ol teachers. Therefore, Court ia emi assume se ol toktok we Missionary irаем ia emi save tru mo emi no save tru, mo Court ia ino save base long em blong mekem decision blong em long favor blong Claimant. Ol evidences we Claimant mo ol witnesses blong em oli produicum bifo long Court ia oli no mitim balance blong probability blong Court ia ideclarem olgeta olsem stret bloodline blong title ia Taripoamata.

Long case blong Defendant, long family tri, Court ia ifaenemaot se Chief Taripoamata Tokai Tagele imaretem Pilelumara we emi daughter blong Chief Manauvea blong Malatuele mo tufala ibornem wan gel nomo we emi Leisavmanu. Leisavmanu emi stret native blong siviri village, mo emi maret long wan Chief nem blong em Napuksere Tongoltong mo tufala ikat two pikinini gel mo nem blong tufala Leinavakalo mo Leintamate.

Court emi interest more long gel ia Leintamate. Leintamate emi maretem Joseph Masoemantonga mo tufala ikat ol pikinini ia, Toufapele, Chief Taripoamata Kaloskike, Toulolo mo Kalserei. Witness namba 1 blong Defendant Eddie Kalowia iconfirmem se Chief Taripoamata Kaosike imaret three taem; mo fes woman blong em emi Mima mo tufala ikat wan gel nomo we nem blong em, emi Rospel. Taem Mima emi ded, Chief Taripoamata emi maretem Ruth mo tufala ino kat pikinini. Tufala iadoptem Tamara, Leimata mo Leipakoa, afta Ruth emi ded.

Afta we Ruth emi ded, Chief Taripoamata emi maretem Isobel mo tufala ikat olgeta pikinini ia, ikat Leisongi, Lily, Leitap, Kalowia Eddie Taripoamata, Tom mo Leitare. Witness namba 2 blong Defendant Tony Firiam emi confirmem tu storian mo history blong Chief Taripoamaata we oli presentem long Court wetem family tri. Witness ia emi talem se emi kamaot long descendant blong Toufabelle, we brata blong em, emi Chief Taripoamata Kalosike. Court emi satisty se sapos witness ia emi kamaot long Toufabelle, then Toufabelle emi stret descendants blong Leintamate we emi stret pikinini blong Leisavmanu. Witness ia emi tesfity tu mo talem se Chief Masongomapula emi wan smol chief nomo long siviri village.

Witness namba 3 blong Defendant Louis Manapanga emi testify mo talem se papa blong em nem blong em, emi Esrom Manapaga. Witness iconfirmem bakagen se Eddie Kalowia emi fes born blong Kalosike Taripoamata mo hem nomo emi Paramount chief blong siviri village. Witness italem bakagen se papa blong Kalosike emi Joseph Maoemanutonga mo emi continu blong talem se emi neva harem se stret bloodline blong Masongomapula emi Taripoamata.

Witness italem se emi save nomo follem history ikam se Eddie Kalowia nomo emi stret bloodline blong Taripoamata mo testify mo confirmem ol storian we Eddie Kalowia mo ol chiefs oli mekem long taem we papa blong Eddie Kalowia emi ded. Witness namba 4 blong Defendant, chief Maemaduruvakalo Charley Obed emi testify mo talem se long custom bifo chief Taripoaliu mo chief Taripoamata iwok very closely from we emi live wetem chief long siviri village.

Witness ia iconfirmem bakagen se Eddie Kalowia emi true mo stret bloodline blong chief Taripoamata blong siviri village follem personal knowledge mo follem connection we chief Taripoaliu ikat wetem Paramount chief ia Taripoamata. Witness italem se chiefly title ipass ikam daon kasem late chief Kalosike Taripoamata emi stret follem custom blong mifala blong North Efate. Witness italem se chief Taripoaliu emi wan bigfala chief blong Efate mo offshore Island bifo.

Afta we Court iharem ol evidences we ol witness blong Defendant oli providem long Court ia, Court iagree mo bilivim se ol evidences we defense iputum bifo long Court ia oli tru everiwan. Court iconfirmem ol statement ia long ol evidences we defense spokes person Mr Titus Taripu iproducum bifo long Court ia olsem wan Exhibit marked "6" we emi wan audio tape cassette we witness namba 1, blong em, Michael Matoa irecordem voice blong chief Arthur Masongomapula long namba 5th October 1999.

Court iquotem part blong toktok blong Chief Arthur Masongomapula *"long 1927 chief Taripoaliu Suasavi blong Nguna ikam mekem chief blong siviri, oli ordainem mi, mi karem name blong great-great-grand father blong mi, Chief Masongomapula, mi stap tedei mi karem nem ia. Village blong siviri mifala ikat plate malala, ikat chief blong em, oli bin leftemap mifala wan taem long taem ia. Nao ia olgeta everiwan oli ded finis wetem high chief blong mifala Taripoamata"*.

"Chief Masongomapula emi continu mo talem se ikat wan woman nem blong em Leisavmanu, emi grand mama blong Chief Taripoamata. Wan taem oli karem em iko long Elama, wan chief blong Elama imaretem hem mo nem blong em Tongoltong smol nem blong em Napuksere, nem blong chief blong em Tongoltonga em nao imaretem olfala woman ia. Tufala istap antap, tufala ikat wan daughter. First daughter blong tufala oli kolem Leinavakalo.

Hemi born long taem blong darkness we ikat faet. Hem nao oli kolem Leinavakalo. Taem tufala inuv ikam daon long taem blong Missi, tufala ikat narafala daughter blong tufala, nem blong em Leintamate. Nao Leintamate ia em, nao emi mama blong Taripoamata, chief blong siviri, we ol family blong em oli stap long siviri tedei".

"Chief Taripoamata ia emi ded finis be son blong em istap, oli kolem Kalowia, may be samtaem mbae emi tekem nem blong olfala blong em Taripoamata".

Olgeta evidences we oli kamaot long Exhibit ia oli confirmem storian mo history blong Defendant, therefore Defendant emi provum case blong em.

Afta we Court iharem ol toktok mo ol submissions blong tufala Parties, Court imekem Declaration mo Orders olsem:

DECLARATION

Kot ideclarem se Eddie Kalowia nao emi kat customary raet mo authority long kastom ova long Jifly Title ia Taripoamata.

Kot ideclarem tu se ordination blong Paramount Chief Kalosike Taripoamata we itekem ples long Siviri village long 27th September 1927 emi stret mo ifollem kastom blong Efate.

Kot ideclarem tu se Eddie Kalowia mo ol descendants blong em nomo, oli kat raet long kastom blong save ordain or take ova long ol kastom properties blong Taripoamata we oli exist long Siviri village tedei.

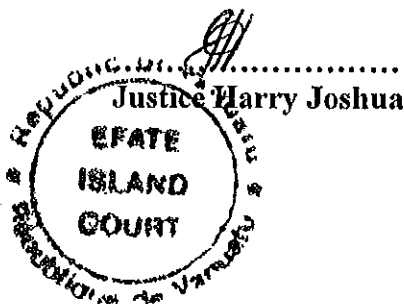
Kot ideclarem tu se Claimant Chief Peter Masongomapula emi no kat any raet under long kastom ova long Chiefly title ia Taripoamata mo ol kastomary properties blong em we oli exist istap long Siviri village tedei.

ORDERS

- Start long tedei Claimant mo ol descendants blong em oli nomo kat any raets under long Kastom blong usum Title ia Taripoamata.
- Ol kastom properties blong Chiefly Title ia Taripoamata oli mas ko bak long Defendant Eddie Kalowia mo ol descendants blong em.
- Kot ikivim raet tu long any party blong appeal within 30 days sapos ino happy long decision ia.
- 30days period istart taem each long tufala parties ikasem Judgment.

.....
Justice Eddie Karis

.....
Justice Sam Marpakoa



DATED long PORT- VILA, long 19th June 2009