

1931.
NEW ZEALAND.

NATIVE LAND AMENDMENT AND NATIVE LAND CLAIMS
ADJUSTMENT ACT, 1928.

REPORT AND RECOMMENDATION ON PETITION No. 127 OF 1928, OF MANA RUKA AND ANOTHER,
RELATIVE TO THE INTEREST OF PIRIKA RUKA (DECEASED), IN WAIOTUTU BLOCK.

*Presented to Parliament in pursuance of the Provisions of Section 50 of the Native Land Amendment
and Native Land Claims Adjustment Act, 1928.*

Native Department, Wellington, 16th October, 1931.

Petition No. 127 of 1928.—Pirika Ruka (deceased).

PURSUANT to section 50 of the Native Land Amendment and Native Land Claims Adjustment Act, 1928, I herewith transmit the report of the Court upon this petition.

The facts set out in the report are not, in my opinion, sufficient to upset a will which has been admitted to proof by the Court, and there is no law forbidding a Native to will his land to a stranger, provided it is not a European. The beneficiary is a minor thirteen years of age and the consent of the surviving executor or even her guardian ought not to deprive the infant of her rights under the will.

Under the circumstances I have no recommendation to make.

R. N. JONES, Chief Judge.

The Hon. the Native Minister, Wellington.

*Petition No. 127 of Session 1928, of Mana Ruka and Ruka Ruka.—Referred by the Chief Judge to the
Court for inquiry and report in pursuance of Section 50 of the Native Land Amendment and Native
Land Claims Adjustment Act, 1928.*

I HAVE the honour to report as follows:—

A Wairarapa Native named Pirika Ruka died in December, 1923, leaving a will which had been executed on 13th November, 1923. Strong opposition was offered to the granting of probate of this will on the grounds that the testator was a man of weak intellect and was influenced by his strong-willed wife who had former husbands who made wills in her favour. The Court, however, held that, although the circumstances were suspicious, the evidence was not sufficiently strong to warrant the setting-aside of the will on the ground of undue influence. See Wairarapa minute-book 32A, page 182. The testator had executed a will five months previously—namely, on 21st June, 1923, by which he gave his wife, Huria Heta, all his personal property absolutely, gave his wife's granddaughter, Rongomaitara te Miha, an interest in the Makirikiri Block, and left all the residue of his real property upon trust for his wife during life and widowhood and Ihipera Whano during life in equal shares with remainder to the testator's next-of-kin—Pitiroi Ruka, Mana Ruka, and Ruka Ruka. In the subsequent will of 13th November, 1923, the trusteeship was altered, the wife received the furniture and household effects absolutely, whilst the rest and residue of his real and personal estate (except a comparatively valueless interest in Pouakani) went to his wife during life and widowhood as to one-half and to his wife's granddaughter, Rongomaitara te Miha, for the other half, with the stipulation that on the death or remarriage of his wife her interest should go in remainder to Rongomaitara te Miha, who was then a girl about five years of age.

The petitioners claim that the testator's interest in a block known as Waiotetuta should come to them in remainder instead of going to Rongomaitara, because it is ancestral land belonging to the elders of the Ruka family and to which Huria Heta, a South Island Native woman, could assert no right or claim apart from the will.

The petitioners are the next-of-kin of Pirika Ruka, being the surviving children of his deceased brother Manihera. They have little or no interests in Native lands, whereas the mother of Rongomaitara possesses some large and valuable Native blocks. Pirika left no issue, and the trustee for Rongomaitara (who is now thirteen years of age), who was appointed a co-executor along with Huria Heta under the will of Pirika, consents to the enactment of legislation enabling the petitioners to apply to the Native Land Court for succession in remainder to the interest of Pirika Ruka in Waiotetuta. The life tenant, Huria Heta, is now deceased.

Dated at Wellington this 18th day of September, 1931.

M. GILFEDDER, Judge.

The Chief Judge, Native Department, Wellington.

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