

IN THE COURT OF APPEAL OF TONGA

LAND JURISDICTION

NUKU'ALOFA REGISTRY

APPEAL NO. AC 29 of 2009

BETWEEN : PULILEKA MATENI

Appellant

**AND : 1. PALETASALE PULILEKA
a.k.a. PETELO TU'UNGAHALA
2. TAULUPE TU'UNGAHALA**

Respondents

**Coram : Ford CJ
Salmon J
Moore J**

**Counsel : Mr Fifita for the Appellant
Mr Tu'utafaiva for the Respondents**

Date of Hearing : 9 July 2010.

Date of Judgment: 14 July 2010.

THE FOLLOWING ORDERS ARE MADE BY CONSENT:

1. The application for leave to call fresh evidence is granted and, as a consequence, the appeal is allowed and the judgment of Andrew J. dated 2 September 2009 is set aside pending further order of the Land Court.
2. The case is referred back to Andrew J. for re-rehearing in the Land Court. Unless the Judge, after hearing submissions from counsel otherwise directs, the de novo rehearing will be confined to oral and documentary evidence relating to the issue of the legitimacy of the second respondent, Taulupe Tu'ungahala.
3. A directions hearing is fixed before Andrew J. for 9am on 22 July 2010 to set the new trial date and finalise any outstanding issues relating to the rehearing.



Ford CJ



Salmon J



Moore J