

IN THE LAND COURT OF TONGA
NUKU'ALOFA REGISTRY

See file

LA 23 of 2014

[Signature]
20/01/14

- BETWEEN: MONTE PAYNE** - **Plaintiff**
- AND: 'OFA FAKAHAU** - **First Defendant**
- AND TANIELA MAKAHUNUNIU** - **Second Defendant**
- AND: LATOA MAFUA** - **Third Defendant**
- AND: 'OFA 'ASO** - **Fourth Defendant**
- AND: HAVEA PAVA** - **Fifth Defendant**
- AND: FELETI LAVULAVU** - **Sixth Defendant**
- AND: SIONE MATAELE MAKAHUNUNIU** - **Seventh Defendant**
- AND: ALAIVAHAMAMA'O MAKAHUNUNIU** - **Eight Defendant**
- AND: REV. FOLAUHOLA FA'UKAFA** - **Ninth Defendant**
- AND: MENOLO TAFOLO** - **Tenth Defendant**
- AND: SIOSAIA MOLITIKA** - **Eleventh Defendant**

Rec'd 31/03/14

BEFORE THE PRESIDENT PAULSEN

To: Mrs. P. Tupou for the plaintiff

Mr. 'O. Pouono for the defendants ✓

Hearing: 11 March 2016.

Decision: 11 March 2016 (reasons in writing 15 March 2016)

RULING

1. There is before the Court an application by the defendants to join the Estate of Lord Fohe and the Minister of Lands as third parties to this proceeding. The applications are opposed.
2. At the commencement of the hearing Mr. Pouono advised that the application to join the Estate of Lord Fohe as a third party was withdrawn. The defendants' maintained the application to join the Minister of Lands to the proceeding.
3. It appears to me that the real issue in this case is whether the plaintiff's claim is time barred. There is no claim made or relief sought by the defendants against the Minister of Lands nor apparently is there any issue arising in the proceeding that needs to be determined also as between the defendants and the Minister. I cannot therefore see any basis for joining the Minister as a third party under O.10 rule 1 Supreme Court Rules.

4. Mr. Pouono agrees that his clients' interests can be suitably advanced by the making of an order for third party discovery against the Minister of Lands. On that basis Mr. Pouono agreed to withdraw the application to join the Minister as a third party also.

5. I make orders as follows:

5.1 The Minister of Lands is within 28 days of service of this Order (such service to be effected by the defendants) to file a list of the documents that are or have been in the Ministry of Lands possession, custody or power in relation to or concerning applications or dealings affecting the land situated at Puke being 8a 1r 00p more or less on Map Heading Plan 3030 at the survey office (presently contained in Deed of Grant 243A/Folio 29); and

5.2 To serve the list on the parties to this proceeding; and

5.3 To make copies of the documents for the inspection of the parties and to serve those on the parties; and

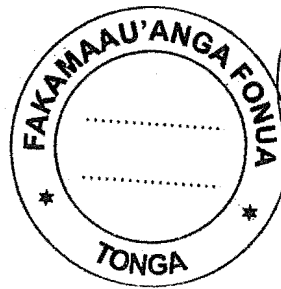
5.4 The Minister may apply on 3 days' notice to the parties to seek any variation to these orders; and

5.5 The Minister may apply for any costs incurred in complying with this Order, such costs being payable by the defendants.

6. The plaintiff is entitled to costs on the application to join third parties which I fix at \$500.00.

- 7 This case is to be called again for mention in Chambers at 9am on 29 April 2016.

DATED: 15 March 2016.



A handwritten signature in black ink, appearing to read "O.G. Paulsen".

**O.G. Paulsen
PRESIDENT**