

**IN THE SUPREME COURT OF TONGA  
APPELLATE JURISDICTION  
NUKU'ALOFA REGISTRY**

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**AM 19 of 2014**

01/06/15  
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**BETWEEN: 'ELINI MAPA V SOLOMONE LATU  
VA'A TOLOKE AND MELEANE TOLOKE  
Private Pros: 58/2013**

**AND: SIONE TU'IMANA v MELEANE TOLOKE  
Private Pros: 70/2013**

**AND: PAAME UHI v MELEANE TOLOKE  
AND SOLOMONE LATU VA'A TOLOKE  
Private Pros: 71/2013**

**Hearing: 15 May 2015**

**Ruling: 15 May 2015 (with written reasons to  
follow)**

**Appearances: Ms. Manavahetau for the appellant  
Meleane Toloke  
Mr. 'O. Pouono for the respondent**

rec'd 29/05/15  
ja

**R U L I N G**

[1] This is at the same time a bewildering and audacious application by Ms. Meleane Toloke. She seeks an order discharging a restraining order that she says was made by Magistrate Mafi on 4 October 2013. The background to the matter is not at all clear. The order that she asks the Court to discharge is not before the Court. The facts, as I understand them, were largely conveyed to me by Counsel and I set them out as follows.

[2] Mrs. Toloke is the defendant in three private prosecutions before the Magistrate's Court. All three private prosecutions are awaiting hearing. A restraining order was imposed by Magistrate Mafi on 20 August 2013 which prevented Mrs. Toloke from leaving the country. There is also on the file another decision of Magistrate Mafi (presumably made after 20 August 2013) refusing an application by Mrs. Toloke to travel overseas for medical reasons. Mr Pouono advises me that subsequently the restraining order was varied by consent so that Mrs. Toloke could travel but on condition that she return to answer the

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charges on a date set by the Court. She did not and has never returned to Tonga and is now in New Zealand.

- [3] In those circumstances it is not clear to me whether there is presently a restraining order in force, if so what are its terms or why Mrs Toloke seeks to discharge it. Her affidavit does not assist and it gives no information about her present circumstances or intentions. The only ground advanced for her present application is an assertion of innocence on the charges she is facing.
- [4] At the hearing I explained to Mrs. Manavahetau that leaving aside the lack of any cogent evidence of what Mrs Toloke was seeking and why I could not see how she could expect the Court to intervene when she is apparently in breach of a Court order requiring her to appear and answer the criminal charges.
- [5] On the unsatisfactory state of the evidence and facts as I understand them the Court is in no position to make any order other than to dismiss this application.

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[6] Mr Pouono submitted that my decision should state that the Court had no jurisdiction to deal with this application because it relates to a criminal case and Mrs Toloke was not present in Court. As I do not think that is a correct statement of the law I cannot accede to that submission.



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

O.G. Paulsen

**NUKU'ALOFA :21 MAY 2015**

**LORD CHIEF JUSTICE**