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High Court overturns decision

Geoff Mercer
Maori affairs reporter



Joe Williams,
High Court judge

THE High Court has ruled the decision of a judge acting alone to decline urgent Waitangi Tribunal hearing applications lodged by Te Upokorehe and Ngati Ruapani to be invalid.

In an 18-page decision, Judge Joe Williams reasoned the decision not to hold urgent hearings was invalid because the judge considering them, Maori Land Court judge Sarah Reeves, lacked jurisdiction.

Justice Williams considered that the Waitangi Tribunal Act provided for individuals to sit alone when ruling on such applications but that person had to be: the tribunal chairperson; a presiding officer at a sitting of the tribunal; or a tribunal member acting under the chairperson's direction to make preliminary decisions.

Judge Reeves' position as a Maori Land Court judge did not give her jurisdiction to decide urgency applications.

She would have had to be joined in a panel by at least two others and, therefore, "was at no stage clothed in the colour of office of a presiding officer; she did not meet the statutory description".

In spite of his finding, Justice Williams made no further orders beyond awarding costs against the tribunal in favour of Te Upokorehe and Ngati Ruapani.

He noted that because the settle-

ment motivating the appeal to the High Court – the Te Urewera-Tuhoe Bill – was before Parliament, the tribunal no longer had jurisdiction over it.

Justice Williams said the settlement of historical Treaty claims always attracted controversy.

"When iwi or hapu settle, adjacent kin groups not settling their claims often complain they are being drawn in by the unwelcome gravitational pull of their relations' settlement."

He said this was particularly so where the unsettled neighbours were small and the settling community very large, and when the outer boundary of a proposed settlement was not delineated by whakapapa connection, but marked on a map.

"In that sort of case, the gravitational pull of the settlement is irresistible for all communities with connection to the land, whether large or small, settling or not."

Te Upokorehe's territorial interests lie to the north and east of their Tuhoe relations. Te Upokorehe also claims tra-

ditional interests within Te Urewera. Almost all of Ngati Ruapani's territory lies within Te Urewera's southern borders.

Te Upokorehe lodged multiple urgency applications, the final one considered alongside that lodged by Ngati Ruapani representative Vern Winitana on May 21, 2013. Judge Reeves declined this application after considering written evidence from both applicants.

A Te Upokorehe Treaty Claims Trust trustee, Richard Wikotu, said the judgment was of "fundamental importance" to Te Upokorehe.

"When the Waitangi Tribunal inquired into all the claims for Te Urewera, it refused to hear our claims."

He said Te Upokorehe lands were "on the tribunal table for neighbouring iwi to claim", and his iwi, which held mana whenua (territorial rights), was absent from the process.

Mr Wikotu said after a long struggle the iwi felt it had been "heard".

Kaumatu Wallace Aramoana said Tuhoe's area of interest boundary line extending across Te Upokorehe's territory was a key issue for the iwi.

Mr Wikotu said Te Upokorehe was studying its options now the judgment was released.

"We are of the view that the Waitangi Tribunal is able to hear our concerns about aspects of the Tuhoe deed of settlement without impacting the ban against the Waitangi Tribunal looking at bills currently before Parliament."

New technology can be a wonderful thing

AND a recent initiative is proving to be extremely effective for rural communities in our East Coast electorate.

Rural living, distance and fragile health often prevents people in our community attending a doctor's appointment.

But not any longer. As part of a telemedicine programme launched for the Eastern Bay of Plenty by health minister Tony Ryall and myself last year, patients don't even have to be in the same room as their doctor to receive treatment.

It has video gear and ultra-fast broadband installed in general practices, rest homes and some GPs own homes, and was first launched in Opotiki as part of an initiative by the Bay of Plenty District Health Board, the Ministry of Business, Innovation and Employment and the National Health IT Board.

It means people living a large distance away, whose own GP isn't available, are able to see a doctor in Opotiki via a video connection from

**MEMBERS
ONLY ...**

ANNE TOLLEY MP



their local health centre.

In some cases it will allow doctors to speak to elderly patients in rest homes, meaning the elderly people don't need to be transported from their home.

I heard of one very frail lady in Opotiki who was able to be so treated recently. It would have been an extremely painful ordeal for her to physically visit the specialist, but she was able to stay put, in familiar surroundings, and still get the treatment she needed.

So it removes a lot of the inconvenience for patients, and can give better and faster access to medical care.

It gives a whole new meaning to house calls.

Similarly, patients who have been

in hospital can have follow-up appointments with specialists via video where it is not necessary for them to be in the same location.

And the patients and professionals I have spoken to say it can make a real difference.

I believe it is a big step forward in providing more affordable, convenient and efficient health service delivery in our district.

Telemedicine makes up part of the Government's vision to deliver better public services, including protecting and growing our health service. Next year our health budget will reach a record \$15.6 billion.

Keeping ourselves and our families healthy is important to New Zealanders.

The National-led Government wants to ensure that we have a public health service that is making the most of the advances in technology.

By using this new technology patients will get the best advice and treatment available.