

12/11
NLR
X
IN THE HIGH COURT OF NEW ZEALAND
NEW PLYMOUTH REGISTRY

M.14/82

1386
1364
IN THE MATTER OF The Status of Children Act 1969

AND

IN THE MATTER OF A declaration as to paternity of
the child B:
AYTON born on the 3rd day of
April 1951 at Otahuhu

A N D

IN THE MATTER OF The Estate of M
TAPSELL late of Maketu, Truck
Driver, deceased

BETWEEN B AYTON
of Eltham, Married Woman

Plaintiff

A N D

L CURTIS of Rotorua,
Married Woman, R. P.
of Mount Maunganui, Married
Woman, HA TAPSELL of Maketu,
Retired, H. TAPSELL of
Rotorua, Retired, D. TAPSELL
as Executor and Trustee of the
Will of P TAIT late of
Maketu, Retired, deceased,
T. TAIT of Rotorua,
Retired, and R. TAIT
and AKA P. TAIT

Defendants

Counsel: G. Smith for Plaintiff
No Appearance for Defendants

Hearing and
Judgment: 31 October 1984

ORAL JUDGMENT OF GALLEN J.

These are proceedings taken out by the plaintiff

seeking a declaration that the relationship of child and father existed between herself and the late M Tapsell. All members of the family who could have any interest in the estate of Mr Tapsell or the outcome of the proceedings, have been served. Apart from the filing of addresses for service, no steps have been taken by any members of the family and no opposition has been indicated to the declaration sought.

In her affidavit, the applicant sets out the family history. She indicates her association with her father over a considerable period and the attitude which he adopted towards her. It is clear that she has been aware for a very long period of what she believed to be the relationship of father and daughter, but the material which is contained in her affidavit is confirmed in other affidavits. An affidavit has been filed by her mother, Mrs M Jones and apart from confirming the plaintiff's statements, she also makes the definite statement of paternity in respect of which the plaintiff seeks a declaration.

There is most significantly the affidavit of Mr R Poihipi which I think provides independent corroboration of the statements which have been made. Mr Poihipi was aware of the situation deposed to by the plaintiff and her mother. He was a friend of the deceased Mr M Tapsell and a close personal friend of all.

He confirms the association between Mr Tapsell and the plaintiff. He also significantly makes a comment to the effect that the relationship was one which appears to have been accepted in the small community in which the parties lived.

Under those circumstances, I think there is ample evidence and corroborative evidence to justify the declaration which is sought and I am prepared to make the declaration accordingly. I understand that Mr Smith is to file a draft order and I will consider that when it is received.

Robson

Solicitors for Plaintiff:

Messrs Roache, Miller and
Holdsworth, Eltham

[Faint, illegible text]