

3

LOW
PRIORITY

3

IN THE MATTER of the Estate of
OLIVE ROWENA GREEN,
late of Dargaville,
Widow, now deceased

BETWEEN ARTHUR WILLIAM FOX of
Tangiteroria,
Kirikopuni, near
Dargaville, Farmer

Plaintiff

A N D MYRTLE ROWENA BOWATER
of Te Aroha, Farmer
and executor and
trustee of the estate
of Olive Rowena Green

A N D PETER GLENDINNING
PEGG of Dargaville,
Solicitor and
executor and trustee
of the estate of
Olive Rowena Green

Defendant

Date: 14 January 1986

MINUTE OF EX PARTE MOTION FOR ORDERS APPOINTING
COUNSEL AND DIRECTIONS AS TO SERVICE AND OTHERWISE

1. This motion raises two essential problems:
 - (a) There is a clear need to take special steps to bring these proceedings within the new Rules of Procedure: and
 - (b) Even at the increased value suggested by the

Applicant the estate is only a relatively modest one and there is a clear need to limit representation so far as the nature of the litigation permits.

2. To meet the procedural changes I believe it is first necessary that the plaintiff file a Statement of Claim and Notices of Proceedings in terms of the new Rules, the Notices to be generally in accordance with form 5 and also (in the cases of Harry and Dorothy) with form 9 - leave no longer being required to serve overseas.

Service should then be effected not only of the Originating Summons and Affidavit in Support, but also the Statement of Claim and Notices of Proceedings, together with a copy of this Minute, which should serve to advise the defendants:

(i) That the service of the Notices of Proceedings and Statement of Claim, as well as the documents originally filed, is being made by order of the Court in an endeavour to bring the proceedings within the new Rules, and that to the extent that the Statement of Claim and Notices of Proceedings may conflict with the Originating Summons, the former should be treated as amending the Originating Summons; and

(ii) Of the Court's view that unless the number of parties and counsel engaged in these proceedings can be

limited there must be a danger that a substantial part of the estate will be consumed in costs, so that the family would be well advised to endeavour to use common solicitors and counsel unless there are conflicts of interest which prevent that action.

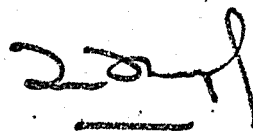
3. In my view service should in the first instance be made on:

(i) Mr Pegg;

(ii) to (ix) Each of the children of the deceased, for themselves, and as representatives of their infant children, and (in the case of Mrs M.R. Bowater) as executrix

4. Each child who has adult children (grandchildren of the testatrix) should be invited to seek authority from them to represent them also in these proceedings, it being totally unlikely that direct provision will be made in favour of a grandchild unless there are very special reasons shown for such provision. A suitable letter and form of authority in favour of the parent should be served on each child having adult children with the other documents already ordered to be served.

4. Costs reserved.

A handwritten signature in black ink, appearing to be 'J. Pegg', is written over a horizontal line.