

SAINT REGIS MOHAWK TRIBAL COURT

**Estate of Moses H. Herne,
Deceased**

Case No.: 18-PROB-00008

DISTRIBUTION ORDER

PROCEDURAL HISTORY

On October 5, 2018, Thomas V. Herne filed a petition with the Saint Regis Mohawk Tribal Court requesting to be named the Administrator of the Estate of Moses H. Herne, his father. Moses H. Herne died on December 27, 1974. Thomas V. Herne submitted a certified family tree from the Saint Regis Mohawk Tribal Clerk's Office. Moses H. Herne predeceased his wife Catherine Herne.¹

JURISDICTION

Pursuant to the Saint Regis Mohawk Tribe's Probate Law, the Court "shall have personal jurisdiction to probate an estate when, at the time of death, (1) the deceased was either a Tribal Member or a person eligible for enrollment as a Tribal Member and the deceased resided or owned real or personal property located within the reservation."² Furthermore, "[t]he Tribal Court shall have exclusive jurisdiction to probate real property located within the reservation."³ In the instant matter, Moses H. Herne, a tribal member, had an interest in real property. Thus, the Court possesses requisite jurisdiction.

APPLICABLE LAW

The present action is governed by the Saint Regis Mohawk Tribe Probate Law (SRMT Probate Law).⁴

ANALYSIS

Moses H. Herne owned [REDACTED] Mose Cook Road. The SRMT Tribal Clerk's Office provided land records which demonstrate a chain of title. On October 10, 1968, Moses H. Herne purchased an approximately [REDACTED] from Mose Cook. The purchase also came with a right of

¹ Thomas V. Herne also filed a probate case for his mother, Catherine Herne. See *Estate of Catherine Herne*, 18-PROB-00009.

² SRMT Probate Law § 1.3 (a).

³ SRMT Probate Law § 1.3. (b) (1).

⁴ SRMT Probate Law (enacted August 16, 2017).

way to the river to follow the road.⁵ The property is described as [REDACTED]

[REDACTED]
to the St. Regis River. This land [REDACTED]

[REDACTED]⁶ The Agreement is signed by Mose Cooke, Moses Herne, three SRMT Chiefs, and the SRMT Clerk. This acre is now known as [REDACTED]

Moses H. Herne predeceased his wife Catherine Herne. Moses H. Herne did not have a will and thus the Estate passes intestate. Pursuant to the SRMT Probate Law, real property passes to the surviving tribal member spouse.⁷ Catherine Herne was a surviving tribal member spouse, however, she died on October 31, 2000. Thus, [REDACTED] passes to the Estate of Catherine Herne and will be distributed as part of her Estate.

There are no other items contained in the Moses H. Herne Estate.

ORDER

Based on the above, the Court hereby **ORDERS** the following:

1. [REDACTED] owned by the Catherine Herne Estate.
2. Thomas V. Herne is released as Administrator.
3. This case is closed.

Signed this 13th day of August, 2019.



Entered into the docket book
On: Aug. 14, 2019
Signed: [Signature]

Carrie E. Garrow,
Chief Judge
Saint Regis Mohawk Tribal Court

No later than ten (10) days after a judgment is final, a party may ask the Judge for a rehearing, reconsideration, correction vacation, or modification of the judgment. The parties have thirty (30) days from the entry of this Order to file an appeal with the Saint Regis Mohawk Court of Appeals.

⁵ October 10, 1968 Agreement between Mose Cook and Moses H. Herne.

⁶ *Id*

⁷ SRMT Probate Law § 3.2(b)(1).