

IN THE SUPREME COURT OF NEW ZEALAND

SC 92/2012
[2013] NZSC 19

BETWEEN KEVIN TITO
Applicant

AND AROHA TITO AND JOHN ANDREW
Respondents

Court: Elias CJ, William Young and Chambers JJ

Counsel: Applicant in person
Respondents in person

Judgment: 14 March 2013

JUDGMENT OF THE COURT

The application for leave to appeal is dismissed.

REASONS

[1] This dispute concerns the management of the Mangakahia 2B2 ahu whenua trust. The Maori Appellate Court appointed Kevin Tito, the applicant, and Aroha Tito and John Andrew, the respondents, as responsible trustees on an interim basis, until the holding of the next general meeting of owners. The Court directed that the trustees were to call a general meeting of owners within 12 months (that is, by 23 February 2012) to consider the future administration of the trust and the appointment of permanent trustees.¹ The Court of Appeal dismissed Mr Tito's appeal, but extended the time for holding the general meeting of owners until 29 January 2013.²

¹ *Tito – Mangakahia 2B2 – No 2 AIA* (2011) Te Taitokerau Appellate MB 86 (A20100003263) at [67].

² *Tito v Tito* [2012] NZCA 493.

[2] Mr Tito now seeks to bring a wide-ranging appeal to this Court. He once again seeks to raise matters beyond what was in issue in the Court of Appeal³ and accordingly beyond what can be in issue in this case. What the interim trustees should already have done is hold the general meeting of owners. If that has happened, it will or should have rendered otiose the only matter which could properly be in issue before us, namely the validity of the interim trustee appointments made by the Maori Appellate Court. If, contrary to the Court of Appeal's order, that meeting has still not been held, it must be as soon as possible.

[3] In any event, the proposed appeal does not raise any matter of general or public importance. Nor will a substantial miscarriage of justice occur if leave to appeal is declined.

[4] Leave to appeal is declined. There will be no order for costs as the respondents did not engage a lawyer.

³ As to what was in issue in the Court of Appeal, see that Court's judgment at [4]–[5].