

IN THE SUPREME COURT OF NEW ZEALAND

[2015] NZSC 125

BETWEEN

JOHN KENNETH SLAVICH
Applicant

AND

THE JUDGES OF THE SUPREME
COURT
Respondent

Counsel: Applicant in person

Judgment: 11 August 2015

JUDGMENT OF WILLIAM YOUNG J

The Registrar's decision to refuse to accept the application is upheld.

REASONS

[1] The applicant is a vexatious litigant. As a result, he requires the leave of the High Court before he may commence proceedings.¹ He duly sought leave of the High Court to issue proceedings against all current members of this Court along with Sir John McGrath who retired in March this year. Leave was declined by Venning J in a judgment delivered on 3 July 2015.² No appeal lies from that decision by reason of s 88B(3) of the Judicature Act 1908.

[2] On 8 May this year, Venning J had dismissed another application by the applicant for leave to issue proceedings; in this instance, against the Registrar of the High Court.³ The applicant however, purported to appeal against what he maintained was the separate decision of Venning J (albeit “given” in the same judgment) not to

¹ See *Attorney-General v Slavich* [2013] NZHC 627.

² *Slavich v Justice O'Regan* [2015] NZHC 1558.

³ *Slavich v Registrar of the Auckland High Court* HC Auckland CIV-2015-404-000937, 8 May 2015.

recuse himself. The Registrar of the Court of Appeal declined to accept the appeal and her decision was upheld by Wild J.⁴

[3] Presumably with that experience in mind, the applicant sought leave to appeal direct to this Court, rather than the Court of Appeal, in relation to the 3 July judgment. In his application, he described the judgment he is challenging as “a decision to decline Recusal and to decline leave to institute proceedings against the justices of this Court”.

[4] In a letter dated 14 July the Registrar of this Court informed the applicant that he had declined to accept the application; this on the basis that (a) if the recusal decision is treated as distinct from the refusal of leave, it must have been made on an interlocutory application and there was thus no jurisdiction to entertain an appeal by reason of s 8(c) of the Supreme Court Act 2003 and (b) an appeal against the refusal of leave was precluded by s 88B(3) of the Judicature Act.

[5] The applicant now seeks a review of the Registrar’s decision.

[6] The applicant’s underlying position is that Venning J should have recused himself, if he had, he would not have declined leave and accordingly, the leave decision should be set-aside. That this is so is apparent from his description in the application for leave to appeal of the relief he seeks:

Overtake the decision of Venning J on Recusal and the High Court’s decision and transfer the matter to this Court. Then deal with the matter by dealing with the proposed consolidated proceedings before this Court filed in relation to the 17 October 2012 leave applications.

[7] He also maintains that the Supreme Court:

Has the power to grant leave in apparent contradiction of s 88B’s law on lack of appeal rights as of right.

[8] Whether the issue is looked at in substance, as I just have, or technically (that the decision not to recuse merged in the ultimate, albeit simultaneous decision to decline leave), what the applicant is proposing is an appeal against the decision

⁴ *Slavich v Registrar of the High Court at Auckland* [2015] NZCA 218.

refusing him leave, an appeal which is precluded by s 88B(3) of the Judicature Act. This Court does not have power to grant leave in “contradiction” of s 88B. The Registrar’s decision not to accept the application was therefore correct and I uphold it.

[9] It has not escaped my attention that I am one of the six named defendants in the proposed proceedings. The same, however, is true of all the current permanent judges of this Court. The jurisdiction to review a decision of the Registrar under s 28(2) of the Supreme Court Act which the applicant has invoked can only be exercised by a permanent Judge.⁵ For this reason, I have decided to deal with the issue notwithstanding my apparent personal involvement.

⁵ Supreme Court Act 2003, s 28(2).