

IN THE SUPREME COURT OF NEW ZEALAND

SC 122/2017
[2017] NZSC 182

BETWEEN	RAZDAN RAFIQ Applicant
AND	ATTORNEY-GENERAL First Respondent
AND	SECRETARY FOR THE DEPARTMENT OF INTERNAL AFFAIRS Second Respondent
AND	INDEPENDENT POLICE CONDUCT AUTHORITY Third Respondent
AND	CHIEF EXECUTIVE OF THE MINISTRY OF SOCIAL DEVELOPMENT Fourth Respondent
AND	COMMISSIONER OF POLICE Fifth Respondent
AND	AUCKLAND COUNCIL Sixth Respondent

Court: William Young, Glazebrook and O'Regan JJ

Counsel: Applicant in Person

Judgment: 4 December 2017

JUDGMENT OF THE COURT

The application is dismissed for want of jurisdiction.

REASONS

Background

[1] On 27 May 2015 Wylie J made an order under s 88B of the Judicature Act 1908 that Mr Rafiq cannot institute any civil proceeding in any court without the leave of the High Court.¹ In 2017 Mr Rafiq applied for leave to commence a civil proceeding. On 4 August 2017 Courtney J refused leave.² Pursuant to s 88B(3) no appeal is permitted from an order granting or refusing leave.

[2] Mr Rafiq sought to file a notice of appeal in the Court of Appeal against the refusal of leave, as well as an application for an extension of time under r 29A of the Court of Appeal (Civil) Rules 2005. On 13 October 2017 the Deputy Registrar informed Mr Rafiq that his application could not be accepted because there was no right of appeal and cl 10(2) of sch 5 of the Senior Courts Act 2016³ applied to the order made under s 88B. We note what was s 88B is for the most part now found (with some additions) in s 169 of the Senior Courts Act. Section 169(6) of that Act imports s 88B(3) and provides that a judge's determination of an application for leave is final.

[3] Mr Rafiq applied for review of the Deputy Registrar's decision. Brown J held that under the provisions of the Senior Courts Act, s 169(6) applied to the application. In any event, the effect under s 88B(3) of the Judicature Act was the same. The application for review was therefore declined.⁴

Application for leave to appeal

[4] Mr Rafiq seeks leave to appeal against Brown J's decision. He takes issue with the substance of Brown J's decision and also claims that Brown J erred in applying the Senior Courts Act rather than the Judicature Act.

¹ *Rafiq v Attorney-General* [2015] NZHC 1153.

² *Rafiq v Attorney-General* [2017] NZHC 1852.

³ Which came into force 1 March 2017.

⁴ *Rafiq v Attorney-General* [2017] NZCA 495.

Jurisdiction

[5] There was no right of appeal from Courtney J's decision. This means the Court of Appeal and this Court have no jurisdiction. This effect is the same under the Senior Courts Act and the Judicature Act.

Result

[6] The application for leave to appeal is dismissed for want of jurisdiction.