

IN THE SUPREME COURT OF NEW ZEALAND

I TE KŌTI MANA NUI O AOTEAROA

SC 72/2024
[2024] NZSC 143

BETWEEN	ALLAN GEOFFREY HALSE Applicant
AND	RANGIURA TRUST BOARD First Respondent
AND	NORRIS WARD MCKINNON LIMITED Second Respondent
AND	SAMUEL WALLACE HOOD Third Respondent
AND	ERIN REBEKAH ANDERSON Fourth Respondent

Court: Glazebrook, Ellen France and Miller JJ

Counsel: Applicant in person
H M Twomey for First Respondent
V S Wethey and R H Anderson for Second, Third and Fourth Respondents

Judgment: 24 October 2024

JUDGMENT OF THE COURT

- A The application for leave to appeal is dismissed.**
- B The applicant must pay the second, third and fourth respondents one set of costs of \$2,500.**
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REASONS

[1] Mr Halse seeks leave to appeal the judgment of the Court of Appeal upholding a High Court decision to make an order under s 166 of the Senior Courts Act 2016.¹ That order prevents Mr Halse from commencing or continuing civil proceedings on the matter before the High Court Judge or any related matter in any senior court, another court, or tribunal.²

[2] Mr Halse contends, among other things, that the Court of Appeal erred in not applying the two-step method adopted in *Mawhinney v Auckland Council*.³ He complains that the Judges in the remaining two “candidate” cases⁴ which were relied upon to found the s 166 order did not make the necessary finding of fact that the cases before them were “totally without merit”, nor did they provide due process to Mr Halse on that point.⁵

[3] In *Mawhinney* this Court declined leave to appeal.⁶ The Court accepted that the nature and scope of considerations relevant to whether a proceeding was totally without merit may give rise to a question of general or public importance which this Court may wish to consider at some point.⁷ However, that case was not an appropriate vehicle to address the issue because there could not realistically be any prospect of a successful appeal and there was not, given the factual findings in the Courts below, any appearance of a miscarriage of justice.⁸

[4] This case falls into the same category. Mr Halse’s essential complaint is that the remaining two candidate proceedings were not in fact wholly without merit. The

¹ *H v RPW* [2024] NZCA 263 (Wylie, Lang and Campbell JJ) [CA judgment].

² *Halse v Rangiura Trust Board* [2023] NZHC 1519 (Moore J) at [118].

³ *Mawhinney v Auckland Council* [2021] NZCA 144, [2021] 3 NZLR 519.

⁴ *H v Employment Relations Authority* [2021] NZCA 507, [2021] ERNZ 858; and *Halse v Employment Relations Authority* [2022] NZEmpC 167, [2022] ERNZ 808. Mr Halse accepts that the proceeding Moore J struck out (*Halse v Rangiura Trust Board*, above n 2) was totally without merit. The Court of Appeal was not prepared to determine that *H v RPW* [2020] NZEmpC 141 was totally without merit.

⁵ See Senior Courts Act 2016, s 167(2). Mr Halse also complains that the Courts below have ignored non-publication orders imposed by the Employment Court. We note that the non-publication order referred to by the Court of Appeal was subsequently revoked by the Employment Court: *Halse v Employment Relations Authority*, above n 4, at [4].

⁶ *Mawhinney v Auckland Council* [2021] NZSC 122.

⁷ At [8]. See Senior Courts Act, s 74(2)(a).

⁸ At [8]. See Senior Courts Act, s 74(2)(b).

only argument advanced in support of the appeal in the Court of Appeal was that the High Court Judge failed to undertake a sufficiently rigorous analysis of the candidate proceedings.⁹ The Court of Appeal undertook its own review and agreed with the High Court Judge that the threshold for the s 166 order was met.¹⁰ We do not think there is any realistic prospect of this Court coming to a different conclusion.¹¹

[5] The application for leave to appeal is dismissed.

[6] The applicant must pay the second, third and fourth respondents one set of costs of \$2,500.

Solicitors:

Robertsons, Auckland for First Respondent

Fee Langstone, Auckland for Second, Third and Fourth Respondents

⁹ CA judgment, above n 1, at [29].

¹⁰ At [64].

¹¹ See Senior Courts Act, s 74(1).