

IN THE SUPREME COURT OF NEW ZEALAND

I TE KŌTI MANA NUI O AOTEAROA

SC 60/2024
[2024] NZSC 76

BETWEEN TE WAKAMINENGA O NGA HAPU KI
WAITANGI
Applicant

AND WAITANGI NATIONAL TRUST BOARD
Respondent

Court: Glazebrook, Ellen France and Miller JJ

Counsel: Applicant in person
No appearance for Respondent

Judgment: 8 July 2024

JUDGMENT OF THE COURT

A The application for leave to appeal is dismissed.

B There is no order as to costs.

REASONS

[1] The Court of Appeal allowed the applicant's appeal from a High Court decision striking out a proceeding under r 5.35B of the High Court Rules 2016.¹ The Court of Appeal reinstated the proceeding, which has now returned to the High Court.²

¹ *Te Wakaminenga o Nga Hapu ki Waitangi v Waitangi National Trust Board* [2023] NZCA 63 (Gilbert, Ellis and Davison JJ) [CA judgment]. For consistency, we refer to the applicant using the same name as that used in the Courts below. As the Court of Appeal observed, it is unclear whether the named applicant is a legal entity capable of bringing proceedings: at [16].

² At [18].

[2] The applicant has brought this application for leave to appeal because it appears that when they returned to the High Court, the Registrar declined to accept the statement of claim on the ground that it was not in proper form.³

[3] This Court does not have jurisdiction to entertain an appeal from the decision of the Registrar of the High Court.⁴ The applicant should either comply with the Registrar's requirements or seek review of the Registrar's decision under r 2.11 of the High Court Rules.

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

[5] There is no order as to costs.

³ The applicant purports to seek leave to appeal the Court of Appeal decision, but that would fail for want of jurisdiction: *Arbuthnot v Chief Executive of the Department of Work and Income* [2007] NZSC 55, [2008] 1 NZLR 13 at [25]; and *A Person or Persons Unknown v Tea Custodians (Bluestone) Ltd* [2011] NZSC 79, (2011) 20 PRNZ 328 at [6]. That application would also be out of time. We have treated the application in substance as an application for leave to appeal the Registrar's decision.

⁴ A Registrar's decision is not "a decision made in the proceeding" for the purposes of ss 68 and 69 of the Senior Courts Act 2016: see *Harrison v Auckland District Health Board* [2013] NZSC 98 at [6]; and *Siemer v Stiassny* [2014] NZSC 70 at [10].