

IN THE SUPREME COURT OF NEW ZEALAND

**SC 77/2008
[2008] NZSC 99**

BETWEEN RAEANNE LEY AND ANOR
 Applicants

AND THE CHIEF EXECUTIVE OF THE
 MINISTRY OF SOCIAL
 DEVELOPMENT AND ORS
 Respondents

Court: Blanchard, Tipping and McGrath JJ

Counsel: F C Deliu for Applicants

Judgment: 24 November 2008

JUDGMENT OF THE COURT

- A The application for leave to appeal is dismissed.**
- B The application for a stay of the costs judgment is dismissed.**

REASONS

[1] The applicants have sought leave for a direct appeal to this Court against a High Court order that their legal representatives, Mr Orlov, and Mr Deliu, must personally pay the costs of counsel for the children in the amount of \$11,125, which the High Court found had been wasted by their conduct. It is also sought to appeal directly against the High Court Judge's refusal to recuse himself on the costs determination.

[2] Section 14 of the Supreme Court Act 2003 directs that this Court must not give leave to appeal directly to it against a decision made in a proceeding in a New Zealand Court other than the Court of Appeal unless (in addition to being satisfied

that it is necessary in the interests of justice for the Court to hear and determine the proposed appeal) it is satisfied that there are exceptional circumstances that justify taking the proposed appeal directly to the Supreme Court.

[3] We have not been so satisfied. In fact, quite the contrary. The application is clearly without merit in terms of s 14 and we have not found it necessary to require submissions from the respondent. Any appeal concerning the matters raised in this application should follow the normal appeal pathway and be brought in the Court of Appeal which is already seized of an appeal against the substantive judgment in the proceeding.

[4] The application refers to certain collateral claims or complaints but their existence does not create exceptional circumstances.

[5] There was also an application for a stay of the enforcement of the costs judgment. That too will be a matter for the Court of Appeal.

Solicitors:
Dennis J Gates, Whangaparaoa for Applicants