

IN THE SUPREME COURT OF NEW ZEALAND

**SC 8/2008
[2008] NZSC 33**

BETWEEN NEVILLE JAMES GIBSON
 Applicant

AND MINTER ELLISON RUDD WATTS
 Respondent

Court: Blanchard, Tipping and Wilson JJ

Counsel: Applicant in person
 R J Scott for Respondent

Judgment: 1 May 2008

JUDGMENT OF THE COURT

The application for leave to appeal is dismissed, with costs of \$2,500 to the respondent.

[1] The applicant seeks leave to appeal against a judgment of the Court of Appeal¹ which dismissed his appeal against a substantive judgment of the High Court and allowed in part his appeal against a subsequent costs judgment. In support of his application, the applicant has lodged not only his original submissions but also (without having obtained leave to do so) amended submissions and an addendum thereto, more than 700 pages of what are said to be supporting documents and submissions in reply. He submits that the criteria for the grant of leave of general or public importance, general commercial significance and miscarriage of justice are all satisfied.

¹ [2007] NZCA 595.

[2] We do not agree. Although his submission is to the contrary, the appellant is in reality attempting to relitigate factual issues which he raised in the Court of Appeal. That Court found that the relevant factual findings of the High Court were supported by the evidence, with the consequence that there are now concurrent findings of fact. These issues were of no concern to anyone other than the parties, and therefore cannot possibly be said to be of general or public importance or of general commercial significance. Moreover, as this Court has made clear,² the miscarriage ground will on its own justify the grant of leave in civil cases only in those rare cases where there is an error in the Court of Appeal reasoning which is so apparent and substantial that it would be repugnant to justice to allow it to go uncorrected. That is plainly not the position here.

[3] The applicant has made allegations of bias against the members of the Court of Appeal. On an objective reading of the very careful judgment of that Court, those allegations are quite unjustified and should not have been made.

[4] The application for leave to appeal is therefore dismissed, with costs of \$2,500 to the respondent.

Solicitors:
McElroys, Auckland for Respondent

² *Junior Farms Ltd v Hampton Securities Ltd (in liq)* [2006] 3 NZLR 522n.