

**IN THE SUPREME COURT OF NEW ZEALAND**

**SC 6/2008  
[2008] NZSC 26**

BETWEEN                      SHELL (PETROLEUM MINING)  
                                         COMPANY LTD AND ORS  
                                         Applicants

AND                              TODD PETROLEUM MINING  
                                         COMPANY LTD AND ORS  
                                         Respondents

Court:                      Blanchard, Tipping and McGrath JJ

Counsel:                      J E Hodder and N S Wood for Applicants  
                                         J B M Smith and D K Croft for First Respondent  
                                         T C Stephens for Fourth Respondent

Judgment:                      15 April 2008

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**JUDGMENT OF THE COURT**

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

**REASONS**

[1]        This application for leave to appeal is made in a proceeding which concerns whether Shell Todd Oil Services Ltd can be removed as operator of the Maui field. As that field is this country's largest gas field, no doubt a significant sum of money or assets of significant value are at stake. But this Court is not permitted to hear a case merely because of the actual or potential monetary value which is involved for the parties.

[2]        The criteria for appeals are laid down by s 13 of the Supreme Court Act 2003. The appeal must be necessary in the interests of justice, which it will be if the

appeal involves a matter of general or public importance or a matter of general commercial significance or if a substantial miscarriage of justice may have occurred.

[3] Here the application relies upon asserted “general commercial significance”. A careful study of the judgment below and of the submissions, bearing in mind what is at stake for the parties, has failed to satisfy us that there is any *general* commercial significance in the issues which it is proposed to bring to this Court. It can be readily accepted that there is commercial significance for the parties inter se but the interpretation and/or enforcement of the unique contractual arrangements gives rise to no larger issues in respect of which a judgment of this Court might give guidance to other litigants in future cases. In other words, it would have no precedent value, which is what s 13(2)(c), and indeed the phrase “general importance” in s 13(2)(a), are directed to.

[4] Equally, we are satisfied that the dispute does not have any element of public importance nor can it be said that the Court of Appeal judgment contains any error both so patent and so significant as to give rise to a miscarriage of justice in the context of a civil appeal. Indeed, our impression, for what it is worth, is that the proposed appeal would have little prospect of success, although we do not determine the leave application on that basis.

Solicitors:  
Chapman Tripp, Wellington for Applicants  
Russell McVeagh, Wellington for First Respondent  
Simpson Grierson, Wellington for Fourth Respondent