

IN THE SUPREME COURT OF NEW ZEALAND

**SC 75/2011
[2011] NZSC 99**

BETWEEN	ROBERT FRANK TERRY Applicant
AND	ROSALIND MEGAN MCLELLAN First Respondent
AND	THE PUBLIC TRUST Second Respondent

Court: Blanchard, Tipping and William Young JJ

Counsel: Applicant in person
G M Brodie for First Respondent

Judgment: 30 August 2011

JUDGMENT OF THE COURT

The application for leave to appeal is dismissed.

REASONS

[1] This is an application for leave to appeal to this Court directly from a decision of the High Court¹ in circumstances where the issues have no greater or wider significance than as between the immediate parties. The question is essentially how the net proceeds of a Rating Powers Act 1985 sale should be divided between the parties.

[2] Section 14 of the Supreme Court Act 2003 provides that this Court must not give leave to appeal directly from the High Court unless the ordinary grounds for bringing appeals to this Court are satisfied and there are exceptional circumstances that justify taking the proposed appeal directly from the High Court to this Court,

¹ *McLellan v Terry* HC Greymouth CIV-2010-418-123, 15 June 2011.

thus bypassing the Court of Appeal. We are satisfied that there are no such exceptional circumstances.

[3] In addition, we are satisfied that the application does not satisfy the ordinary criteria for leave to appeal set out in s 13 of the Act. No matter of general or public importance is involved nor any matter of general commercial significance. We do not consider that a substantial miscarriage of justice may have occurred or may occur unless this Court gives leave to appeal.

[4] For these reasons the application must be dismissed.

Solicitors:
Carruthers & Wetherall, Greymouth for First Respondent