

IN THE SUPREME COURT OF NEW ZEALAND

I TE KŌTI MANA NUI

SC 13/2021
[2021] NZSC 55

BETWEEN TREVOR JAMES MURRAY
 Applicant

AND WEST COAST HOLDINGS LIMITED
 Respondent

Court: Glazebrook, O'Regan and Ellen France JJ

Counsel: Applicant in person
 S A McKenna for Respondent

Judgment: 3 June 2021

JUDGMENT OF THE COURT

- A The application for an extension of time to apply for leave to appeal is dismissed.**
- B There is no order as to costs.**
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REASONS

Introduction

[1] On 2 December 2020, the Court of Appeal declined Mr Murray's application for an extension of time to file the case on appeal and apply for a hearing date.¹

[2] His proposed appeal to the Court of Appeal was from a decision of the High Court adjudicating him bankrupt.²

¹ *Murray v West Coast Holdings Ltd* [2020] NZCA 611 (Brown and Gilbert JJ) [CA judgment].

² *West Coast Holdings Ltd v Murray* [2020] NZHC 783 (Associate Judge Sargisson) [HC judgment].

[3] The debt in question related to a personal guarantee under a lease. Amounts were owing to West Coast Holdings due to the collapse of the lessee, a company of which Mr Murray was a director and shareholder. Mr Murray had contended before the High Court that a compromise agreement had been reached with West Coast in relation to the judgment debt. This was rejected by the High Court.³ The Judge also rejected Mr Murray's submission that further time should have been allowed to enable funds to be sought from family or through recovery proceedings against a third party.⁴ The High Court was satisfied that the jurisdictional grounds for the adjudication order were made out and that there were no grounds for exercising the Court's discretion to refuse the order.⁵

Court of Appeal decision

[4] The Court of Appeal concluded that Mr Murray had been given a fair hearing in the High Court and that there was no evidence that any compromise had been agreed to by West Coast Holdings.⁶ Further, Mr Murray had made no payment with regard to the debt owing.⁷ The High Court's decision on jurisdiction was upheld.

This application

[5] Mr Murray seeks leave to appeal against the Court of Appeal decision. His proposed grounds are wide-ranging but essentially cover much of the same issues as in the Courts below.

Our assessment

[6] The proposed appeal relates to the particular circumstances of this case. There is therefore no matter of general or public importance or commercial significance as required for a leave to appeal to this Court.⁸ Nor does anything raised suggest the

³ HC judgment, above n 2, at [14].

⁴ At [18].

⁵ At [3].

⁶ CA judgment, above n 1, at [21].

⁷ At [7].

⁸ Senior Courts Act 2016, s 74(2).

Court of Appeal erred in its decision. The threshold for a miscarriage of justice in the civil sense has also not been met.⁹

[7] The application was filed out of time. We do not grant an extension of time given that the application for leave could not have succeeded.

Result

[8] The application for an extension of time to apply for leave to appeal is dismissed.

[9] As Mr Murray is bankrupt, we make no order as to costs.

Solicitors:
McKenna King, Hamilton for Respondent

⁹ *Junior Farms Ltd v Hampton Securities Ltd (in liq)* [2006] NZSC 60, (2006) 18 PRNZ 369 at [5].