

IN THE SUPREME COURT OF NEW ZEALAND

I TE KŌTI MANA NUI

SC 7/2021
[2021] NZSC 6

BETWEEN	RAJENDRA PRASAD Applicant
AND	INDIANA PUBLICATIONS (NZ) LIMITED First Respondent
	IRENE LAL Second Respondent
	VENKAT RAM Third Respondent
	MAHESH PARERA Fourth Respondent
	CHENCHU NAGULU Fifth Respondent

Court: William Young, Ellen France and Williams JJ

Counsel: Applicant in person

Judgment: 16 February 2021

JUDGMENT OF THE COURT

A The application for leave to appeal is dismissed.

B There is no order as to costs.

REASONS

Introduction

[1] The applicant seeks leave to appeal from the decision of the Court of Appeal striking out his appeal to that Court.¹

Background

[2] The background leading up to the present application is set out in the judgment of the Court of Appeal.² It is sufficient for us to note the following. First, in May 2003 the applicant filed proceedings alleging infringement of copyright. Those proceedings were finally decided against his interests in April 2008.³ Since then, the applicant has issued various proceedings which are detailed in the Court of Appeal judgment.⁴

[3] The present proceedings relate to judicial review proceedings brought in 2020 by the applicant in the High Court. As the Court of Appeal notes, these proceedings sought a range of relief including “re-opening” the High Court proceedings issued in 2009, “revisiting” another decision made in those proceedings on 27 July 2009 and “issuing an amended judgment clarifying the proper interpretation” of various sections of the Copyright Act 1994.⁵

[4] These judicial review proceedings were struck out in the High Court as an abuse of process.⁶ In reaching that conclusion, the High Court considered the applicant was seeking, under the guise of judicial review, to revisit the question of copyright ownership and infringement which had already been dealt with. The Court of Appeal agreed, noting that the proceedings sought to be reopened had been struck out as an abuse of process and the relevant appeal rights exhausted. Further,

¹ *Prasad v Indiana Publications (NZ) Ltd* [2020] NZCA 628 (Brown, Gilbert and Courtney JJ) [CA judgment].

² At [6]–[31].

³ See *Sage Group Ltd v Indiana Publication (NZ) Ltd* DC Manukau CIV-2003-092-4034, 29 August 2005; *Sage Group Ltd v Indiana Publications Ltd* HC Auckland CIV-2005-404-5424, 13 April 2006; *Sage Group Ltd v Indiana Publications Ltd* HC Auckland CIV-2005-404-5424, 6 November 2007; and *Prasad v Indiana Publications Ltd* [2008] NZCA 70. The decision of the Registrar of this Court declining to accept an application for leave to appeal against the decision of the Court of Appeal was confirmed by Blanchard J in a minute issued on 16 April 2008.

⁴ CA judgment, above n 1, at [14]–[26].

⁵ At [27].

⁶ *Prasad v Indiana Publications (NZ) Ltd* [2020] NZHC 2384 (Walker J).

the Court of Appeal said that the case on appeal in that Court referred also to judgments in the District Court and High Court dated 20 February 2009 and 3 August 2009 respectively. The Court made the point that appeal rights in relation to those judgments had also been exhausted and there was no basis on which the applicant could now revisit those judgments by way of judicial review proceedings in the High Court or otherwise.⁷

The proposed appeal

[5] It is plain from the application for leave to appeal and associated material filed in this Court that the proposed appeal would challenge the outcome of the proceedings filed in 2003. No question of general or public importance arises.⁸ Nor do we see any error in the assessment of the Courts below that the proceedings and proposed appeal to the Court of Appeal were an abuse of process.⁹ The criteria for leave to appeal are not met.

[6] The application for leave to appeal is accordingly dismissed.

[7] As the respondents took no part in relation to the present application, there is no order as to costs.

[8] The Registrar is directed not to accept any further documents in relation to this application from Mr Prasad.

⁷ The applicant also refers to the judgment of 3 August 2009 (*Prasad v Indiana Publications (NZ) Ltd* (2009) 19 PRNZ 816 (HC)) in his memorandum dated 25 January 2021 filed in support of his application for leave to appeal to this Court.

⁸ Senior Courts Act 2016, s 74(2)(a).

⁹ There is no risk of a miscarriage of justice: Senior Courts Act, s 74(2)(b); and *Junior Farms Ltd v Hampton Securities Ltd (in liq)* [2006] NZSC 60, (2006) 18 PRNZ 369.