

IN THE SUPREME COURT OF NEW ZEALAND

I TE KŌTI MANA NUI O AOTEAROA

SC 71/2022
[2022] NZSC 121

BETWEEN	DENNIS ARTHUR SMITH Applicant
AND	IAN JAMES PLOWMAN First Respondent
	NIKAU GROVE NURSERY LIMITED Second Respondent
	HELEN IRENE MITCHELL Third Respondent

Court: Glazebrook, O'Regan and Ellen France JJ

Counsel: Applicant in person

Judgment: 18 October 2022

JUDGMENT OF THE COURT

A The application for recall of this Court's judgment of 21 September 2022 (*Smith v Plowman* [2022] NZSC 109) is dismissed.

B There is no order as to costs.

REASONS

[1] Mr Smith applies for recall of this Court's judgment in which we dismissed his application for leave to appeal.¹

¹ *Smith v Plowman* [2022] NZSC 109.

[2] Mr Smith does not articulate the basis on which he seeks recall but we infer that he relies on the ground that there is a very special reason that justice requires the judgment to be recalled.²

[3] Mr Smith argues the Court erred in three ways. First, he says the Court wrongly stated that the Deputy Registrar had dismissed a fee waiver application. It is clear from the High Court judgment that this statement was correct.³ Secondly, he says the Court quoted an extract from the Court of Appeal judgment that he disputed. There is nothing in this point: it did not feature in this Court's reasoning. Thirdly, he argues the Court applied interpretations of the law incorrectly. This is simply relitigating the Court's decision, which is not an appropriate basis on which to seek recall.⁴

[4] There is no reason, let alone a very special reason, to recall the judgment.

[5] The application for recall is therefore dismissed.

[6] There is no order as to costs.

² *Craig v Williams* [2019] NZSC 60 at [10].

³ *Smith v Plowman* [2021] NZHC 2618 at [3]. We acknowledge there was an earlier fee waiver application that was accepted by the Deputy Registrar. However, Powell J subsequently formed the view that there was no basis for fees to be waived. The applicant then applied for another fee waiver which was declined by the Deputy Registrar. It is this latter fee waiver that was the subject of review in *Smith v Plowman* [2021] NZHC 2618 and was what this Court was referring to in its decision declining leave to appeal.

⁴ *Nuku v District Court at Auckland* [2018] NZSC 39 at [2].