

IN THE SUPREME COURT OF NEW ZEALAND

I TE KŌTI MANA NUI O AOTEAROA

**SC 97/2022
[2022] NZSC 135**

BETWEEN

PAULINE JANICE HARRISON
Applicant

AND

**ADRIENNE HARRISON AND GRAEME
ROSS HARRISON**
First Respondents

NICHOLAS HAMILTON BIRDSEY
Second Respondent

RAYMOND OWEN PARMENTER
Third Respondent

CHILDFUND NEW ZEALAND LIMITED
Fourth Respondent

ASB BANK LIMITED
Fifth Respondent

Court: Glazebrook, O'Regan and Ellen France JJ

Counsel: Applicant in person

Judgment: 18 November 2022

JUDGMENT OF THE COURT

A The application for leave to appeal is dismissed.

B The applicant must pay the respondents costs of \$500.

REASONS

[1] Ms Harrison seeks leave to appeal against a Court of Appeal decision striking out her leave application for failure to pay security for costs.¹

Background

[2] The applicant, Ms Harrison, filed proceedings in the High Court against the first and fifth respondents. These were struck out by the High Court in 2020 and an order was also made under s 166(2) of the Senior Courts Act 2016 preventing her from making any further applications relating to the Valerie Geard Trust, the Valerie Geard Waiheke Trust or the first respondents either in their personal capacity or in relation to their capacity as trustees of those trusts.²

[3] Ms Harrison sought to appeal against both the strike out and restraint decisions to the Court of Appeal. She sought dispensation for security for costs. The Deputy Registrar requested supporting financial information but Ms Harrison instead filed an interlocutory application for a declaration of inconsistency between ss 145 and 148 of the Senior Courts Act 2016 and rr 35–37 of the Court of Appeal (Civil) Rules 2005. This application was dismissed by the Court of Appeal which gave her five working days to provide the requisite supporting documentation for the waiver application.³

[4] Ms Harrison did not provide the information but instead applied to this Court for leave to appeal against the Court of Appeal's refusal of her interlocutory application. Leave was declined on the grounds the appeal had little prospect of success.⁴ An application for recall of that decision was also refused.⁵

[5] No supporting information was subsequently provided to the Deputy Registrar regarding the request for a waiver for security. The Deputy Register therefore declined

¹ *Harrison v Harrison* [2022] NZCA 386 (Cooper P, Brown and Gilbert JJ).

² *Harrison v Harrison* [2020] NZHC 3066 (Powell J).

³ *Harrison v Harrison* [2021] NZCA 301 (Cooper and Brown JJ) at [11].

⁴ *Harrison v Harrison* [2021] NZSC 115 (William Young, O'Regan and Ellen France JJ).

⁵ *Harrison v Harrison* [2021] NZSC 136 (William Young, O'Regan and Ellen France JJ).

the application, although the amount was reduced based on the fact only two of the respondents would be actively involved in the proposed appeal.

[6] Ms Harrison’s application for review of the Deputy Registrar’s refusal to waive security for costs was declined, Brown J noting that he agreed with the Deputy Registrar that the proposed appeal “involves an element of vexatiousness”.⁶ The Court stated Ms Harrison had to pay security for costs or her appeal would be struck out.⁷ In August 2022, the Court noted that the security was still unpaid and struck the appeal out.⁸

Our assessment

[7] This application does not satisfy the criteria for leave to appeal. It raises no matter of general or public importance.⁹ Nor is there any risk of a miscarriage of justice.¹⁰

Result

[8] The application for leave to appeal is dismissed.

[9] Although the respondents confirmed they did not intend to file submissions and would abide by this Court’s decision, they were still obliged to respond to Ms Harrison’s application. We therefore award a reduced amount of costs in the sum of \$500 to be shared between the respondents.

⁶ *Harrison v Harrison* [2022] NZCA 246 (Brown J) at [13].

⁷ At [14].

⁸ *Harrison v Harrison* [2022] NZCA 386 (Cooper P, Brown and Gilbert JJ) at [4].

⁹ Senior Courts Act, s 74(2)(a).

¹⁰ Section 74(2)(b). For the threshold required for a miscarriage of justice in civil cases, see *Junior Farms Ltd v Hampton Securities Ltd* (in liq) [2006] NZSC 60, (2006) 18 PRNZ 369 at [5].