

IN THE SUPREME COURT OF NEW ZEALAND

I TE KŌTI MANA NUI O AOTEAROA

**SC 95/2025
[2025] NZSC 147**

BETWEEN

DONNA POKERE-PHILLIPS
Applicant

AND

TRUSTEES OF TE HANATAUA TRUST
Respondents

Court: Glazebrook, Ellen France and Miller JJ

Counsel: Applicant in person
S W Hughes KC for Respondents

Judgment: 23 October 2025

JUDGMENT OF THE COURT

- A The application for an extension of time to apply for leave to appeal is granted.**
 - B The application for leave to appeal is dismissed.**
 - C The application for a stay of enforcement of the Court of Appeal costs award is dismissed.**
 - D The applicant must pay the respondents one set of costs of \$2,500.**
-

REASONS

[1] Ms Pokere-Phillips seeks leave to appeal from a decision of the Court of Appeal in which she was refused an extension of time to appeal a decision of

the Māori Appellate Court upholding a Māori Land Court decision awarding costs against her.¹

[2] The Māori Land Court upheld a decision of the respondent trustees² to demolish a whare on trust land.³ The Court reached that decision after appointing a pūkenga to investigate tikanga applicable to the area. It then awarded costs of \$9,221.86 against Ms Pokere-Phillips personally pursuant to s 79 of Te Ture Whenua Māori Act 1993.⁴ That comprised half of the costs payable; the balance was paid by the Māori Land Court Special Aid Fund.

[3] Ms Pokere-Phillips appealed the costs order only, under s 58 of the Act. The Māori Appellate Court declined to admit new evidence and rejected Ms Pokere-Phillips' complaint that the pūkenga had a conflict of interest.⁵

[4] Ms Pokere-Phillips' appeal to the Court of Appeal was deemed abandoned under r 43 of the Court of Appeal (Civil) Rules 2005. She had been granted a series of extensions of time while an application to waive security for costs was dealt with, but these eventually lapsed on 18 December 2024, and at that point her appeal was deemed abandoned.

[5] Ms Pokere-Phillips then sought an extension of time for filing the case on appeal on 29 January 2025. The Court of Appeal accepted that delays were partly explained by the application to dispense with security and the review of that decision.⁶ It accepted that the extension expired just before Christmas and the application to further extend it was made promptly.⁷ But Palmer J had agreed with the

¹ *Pokere-Phillips v Trustees of Te Hanataua Trust* [2025] NZCA 319 (Mallon and Cooke JJ) [CA judgment]. See *Pokere-Phillips v Scott – Ōuri 1A3* [2024] Māori Appellate Court MB 84 (2024 APPEAL 2023/7) (Chief Judge Fox, Judges Reeves and Armstrong) [MAC judgment]; and *Pokere v Bodger – Ōuri 1A3* (2023) 468 Aotea MB 163 (468 AOT 163) (Minute of Judge Warren) [MLC costs allocation].

² Like the Court of Appeal, we refer to the “Trustees of Te Hanataua Trust”: see CA judgment, above n 1, at [1], n 1.

³ *Pokere v Bodger – Ōuri 1A3* (2022) 459 Aotea MB 210 (459 AOT 210).

⁴ MLC costs allocation, above n 1; and see *Pokere v Bodger – Ōuri 1A3* (2023) 466 Aotea MB 120 (466 AOT 120) (Judge Warren and Dr Hond).

⁵ MAC judgment, above n 1, at [37] and [42]–[43].

⁶ CA judgment, above n 1, at [19].

⁷ At [18]–[19].

Deputy Registrar that a reasonable and solvent litigant would not pursue the appeal.⁸ It was also inevitable that Ms Pokere-Phillips would not have paid the security, so bringing the appeal to an end in any event.⁹

[6] Turning to the merits, the Court of Appeal agreed with Palmer J that they were weak and added that many of the grounds of appeal related to issues other than costs.¹⁰ It observed, as Palmer J had done, that Ms Pokere-Phillips had not objected to the pūkenga before the Māori Land Court.

[7] The proposed appeal is confined to costs.¹¹ It raises no question of general or public importance.¹² Nor is there any appearance of a miscarriage of justice as that term is used in the civil context.¹³ The application for leave to appeal is dismissed, along with the application to stay enforcement of the costs award pending appeal.

[8] The applicant must pay the respondents one set of costs of \$2,500.

⁸ *Pokere-Phillips v Trustees of Te Hanataua Trust* [2024] NZCA 657 at [15].

⁹ CA judgment, above n 1, at [20].

¹⁰ At [23].

¹¹ The application for leave to appeal was brought in time but it was not procedurally compliant. The applicant met those requirements but was then out of time. We formally grant an extension.

¹² Senior Courts Act 2016, s 74(2)(a).

¹³ Section 74(2)(b); and *Junior Farms Ltd v Hampton Securities Ltd (in liq)* [2006] NZSC 60, (2006) 18 PRNZ 369 at [5].