

IN THE SUPREME COURT OF NEW ZEALAND

**SC 90/2010
[2010] NZSC 141**

BETWEEN	G Applicant
AND	CHIEF EXECUTIVE OF THE MINISTRY OF SOCIAL DEVELOPMENT First Respondent
AND	BARNARDOS NEW ZEALAND Second Respondent
AND	LOUISE SMITH Third Respondent
AND	THE ATTORNEY-GENERAL Fourth Respondent
AND	DR PRAMILA FERNANDEZ Fifth Respondent

Court: Elias CJ, Tipping and McGrath JJ

Counsel: E Orlov for Applicant
A Williams for First and Fourth Respondents
A Cooke for Second Respondent
H Janes for Third Respondent
A H Waalkens QC and A L Credin for Fifth Respondent

Judgment: 17 November 2010

JUDGMENT OF THE COURT

The application for leave to appeal is dismissed.

REASONS

[1] The applicant has appealed to the Court of Appeal against a judgment of the High Court¹ striking out her statement of claim seeking custody orders in this proceeding, which is part of a long running dispute between the applicant and the first and second respondents. The Registrar of the Court of Appeal refused an application to dispense with security for costs on the appeal payable by the applicant. On review of that decision Glazebrook J decided that security should be given by the applicant in a reduced sum of \$5,000.² The applicant now seeks leave to appeal against the Judge's refusal to waive security for costs.

[2] The underlying appeal relates to the failure of the applicant to comply with directions as to pleading including, eventually, an order that unless she filed an amended statement of claim by a specified date the applicant's proceeding would be struck out.

[3] Glazebrook J's decision on security for costs was made on the application of settled criteria. It recognised the applicant's limited means. The Judge's approach was orthodox and gives rise to no issues of principle. We are also satisfied that the underlying appeal is such that the respondents to it should have some protection by way of security for costs.

[4] Accordingly, the application for leave to appeal is dismissed. There will be no order for costs.

Solicitors:

Botany Law, Manukau for Applicant
Crown Law Office, Wellington for First and Fourth Respondents
Kensington Swan, Auckland for Second Respondent
Keegan Alexander, Auckland for Third Respondent
Fisher Lamberg, Auckland for Fifth Respondent

¹ *RIG v Chief Executive of the Ministry of Social Development* HC Auckland CIV 2008-404-003461, 27 July 2009.

² *RIG v Chief Executive of the Ministry of Social Development* [2010] NZCA 370.