

IN THE SUPREME COURT OF NEW ZEALAND

**SC 46/2005
[2005] NZSC 52**

BETWEEN ROGER JOHN PAYNE
 Plaintiff

AND JEANETTE ROSSLYN PAYNE
 Respondent

Court: Blanchard J and Tipping J

Counsel: Applicant in Person

Judgment: 28 July 2005

JUDGMENT OF THE COURT

The application for leave to appeal is dismissed.

REASONS

[1] The Supreme Court has no power to hear an appeal from the refusal of the Court of Appeal to recall any of its judgments in which the applicant was refused leave to appeal to the Court of Appeal: *Ngahuia Reihana Whanau Trust v Flight* (2004) 17 PRNZ 357.

[2] In the case of the judgment of 17 February 2005, leave to appeal has previously been refused by this Court.

[3] There are no exceptional circumstances which would permit the Court to hear the proposed interlocutory appeal relating to MacKenzie J's minute of 13 April 2005. Both MacKenzie J and the Court of Appeal regarded the application as an abuse of the process of the Court. We agree with that view.

[4] There being no foundation for any substantive appeal, no question of stay can arise.