

**NOTE: PURSUANT TO S 125 OF THE DOMESTIC VIOLENCE ACT 1995,
ANY REPORT OF THIS PROCEEDING MUST COMPLY WITH SS 11B TO
11D OF THE FAMILY COURTS ACT 1980. FOR FURTHER
INFORMATION, PLEASE SEE
HTTP://WWW.JUSTICE.GOV.NZ/COURTS/FAMILY-
COURT/LEGISLATION/RESTRICTIONS-ON-PUBLICATIONS**

IN THE COURT OF APPEAL OF NEW ZEALAND

**CA191/2016
[2016] NZCA 384**

BETWEEN SN
Applicant

AND MN
Respondent

Hearing: 1 August 2016
Court: Kós P, Cooper and Winkelmann JJ
Counsel: M J McCartney QC for Applicant
V A Crawshaw and H G Holmes for Respondent
Judgment: 10 August 2016 at 10.30 am

JUDGMENT OF THE COURT

**A The application for leave to appeal against the judgment of Peters J in
SN v MN is granted.¹**

B The questions of law for determination by this Court are:²

**1. Was the Judge correct to say that the appeal before her was
against the exercise of a discretion, in reliance upon the decision
of this Court in *Surrey v Surrey*?³**

¹ *SN v MN* [2016] NZHC 566.

² Domestic Violence Act 1995, s 93(1).

³ *Surrey v Surrey* [2008] NZCA 565, [2010] 2 NZLR 581.

2. **Did the Judge err in finding that the Family Court Judge applied the correct test as to what constitutes domestic violence for the purposes of the Domestic Violence Act 1995?**

3. **Did the Judge err in finding that the Family Court Judge's consideration of whether a protection order was necessary for the protection of the applicant was in accordance with the requirements of s 14 of the Domestic Violence Act and in particular that he took into account the mandatory considerations in ss 14(3), 14(5)(a) and 14(6), and did not take into account irrelevant considerations?**

C There will be no order for costs on the application for leave given that the respondent's opposition was reasonable.

Solicitors:
Rob Webber & Associates, Auckland for Applicant
Sean Kelly Lawyers, Auckland for Respondent