

IN THE HIGH COURT OF NEW ZEALAND
CHRISTCHURCH REGISTRY

NO. M.290/81

1014

IN THE MATTER of the Judicature Amendment Act
1972 and its Amendments

A N D

IN THE MATTER of an application by ROBERT
ROWLAND CURRIE for an application
for review of a decision of the
WAIMAIRI COUNTY COUNCIL made
pursuant to a statutory power

BETWEEN

ROBERT ROWLAND CURRIE

Plaintiff

A N D

THE CHAIRMAN, COUNCILLORS AND
CITIZENS OF WAIMAIRI

Defendant

Hearing: 17 April 1984

Counsel: A.A.P. Willy for Plaintiff
C.B. Atkinson for Defendant

Order: 15 AUG 1984

ORDER OF COOK J. AS TO COSTS

When a declaration was made in this matter, that a resolution of the Council was invalid, the question of what further orders, if any, should be made and the question of costs were reserved.

While the matter stands adjourned sine die, some further resolution relating to the street in question has been

passed by the Council and this the plaintiff states he accepts as resolving the matter between them. He now asks that costs be fixed. Mr Atkinson for the Council, argues that the application is premature. It seems to me that the plaintiff is certainly entitled to costs and that it would be proper to make an order.

Mr Willy has reviewed the long history of the matter and asks that costs be fixed in respect of matters up to judgment being given. He stresses that the hearing in preparation of the case were extended by reason of a series of arguments relating to the stream bed and other matters raised by the Council; that the plaintiff was delayed almost five years but was finally successful and that it is a case of an individual having to take action against a corporate body. He submitted that the plaintiff should not be out of pocket and referred to EMI Records Limited v. Wallace Limited [1982] 2 All ER 980 in which Megarry V-C discussed the different bases upon which costs in England may be awarded. I do not see grounds, however, for going beyond the normal provision for costs on a party and party basis having regard to the scale provided. The sum should take into account, however, that, while the refusal of the permit was based on the grounds that the work proposed would have been an offence under Section 357, as Mr Willy pointed out, a great number of issues were raised at the hearing and certainly increased the preparation necessary and the time of the hearing.

With the scale in mind, I make an order for costs to the plaintiff for \$2,500 together with disbursements as fixed by the Registrar.



Solicitors:

E.J. Corcoran Son Thwaites & Brown, Christchurch, for Plaintiff
Dougall Stringer & Co., Christchurch, for Defendant.