



Thursday, September 28, 2000

Le jeudi 28 septembre 2000

Present:

Présents :

The Honourable Madame Justice
L'Heureux-Dubé
The Honourable Mr. Justice Bastarache
The Honourable Mr. Justice LeBel

L'honorable juge L'Heureux-Dubé
L'honorable juge Bastarache
L'honorable juge LeBel

BETWEEN:

ENTRE :

NICHOLS GRAVEL LIMITED

NICHOLS GRAVEL LIMITED

Applicant

Demanderesse

- and -

- et -

THE CORPORATION OF THE TOWNSHIP OF
DELHI, DAVID ANDERSON AND FRANK
GELINAS

LA CORPORATION DU CANTON DE DELHI,
DAVID ANDERSON AND FRANK GELINAS

Respondents

Intimés

The application for leave to appeal from the judgment of the Court of Appeal for Ontario, Number M24464, dated November 24, 1999, was this day dismissed with costs.

La demande d'autorisation d'appel de l'arrêt de la Cour d'appel de l'Ontario, numéro M24464, daté du 24 novembre 1999, a aujourd'hui été rejetée avec dépens.

original signed by
original signé par
Louise Meagher

DEPUTY REGISTRAR

REGISTRAIRE ADJOINTE

Nichols Gravel Ltd. v. Delhi (Township)

page 1

Indexed as:

Nichols Gravel Ltd. v. Delhi (Township)

Nichols Gravel Limited

v.

The Corporation of the Township of Delhi, David Anderson and
Frank Gelinas

[2000] S.C.C.A. No. 44

Supreme Court of Canada

File No.: 27720

ON APPEAL FROM THE COURT OF APPEAL FOR ONTARIO

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Status: Application for leave to appeal dismissed with costs (without reasons) September 28, 2000.

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Procedural law — Judgments and orders — Appellate jurisdiction — Torts — Commercial law — Action for injurious falsehood, unlawful interference with economic relations and conspiracy — Punitive damages and equitable relief sought — Action dismissed at trial — Allegation that appeal wrongly heard by Divisional Court on consent of counsel rather than in Court of Appeal — Leave to appeal to Court of Appeal denied — Whether counsel's consent can confer jurisdiction on a court that would otherwise not be entitled to hear an appeal — Whether any obligation on the Court of Appeal to grant a remedy when presented with a lower court judgment made in the absence of jurisdiction — What principles govern a trial judge's assessment under s. 19(1)(a)(iv) of the Courts of Justice Act, for the purposes of determining appellate jurisdiction — Whether an action in negligence lies against a government body that fails to follow its own law governing the award of contracts through a tendering process.

COUNSEL:

Julian N. Falconer (Falconer Charney Macklin), for the motion.
Peter Haney (Mollison, McCormick, McIntyre & McGee), contra.

CHRONOLOGY:

1. Application for leave to appeal:

FILED: January 24, 2000. S.C.C. Bulletin, 2000, p. 293.

SUBMITTED TO THE COURT: July 24, 2000. S.C.C. Bulletin, 2000, p. 1333.

DISMISSED WITH COSTS: September 28, 2000 (without reasons).

Before: L'Heureux-Dubé, Bastarache and LeBel JJ.

PROCEDURAL HISTORY:

Judgment at first instance: Claims for inter alia,
negligence, injurious falsehood and for an order
quashing the Respondent's "Quality Assurance Policy"
dismissed.

Ontario Court (General Division), Cavarzan J., August
23, 1996.

[1996] O.J. No. 2973.

Supplementary reasons for judgment on costs.

QUICKLAW

Nichols Gravel Ltd. v. Delhi (Township)

page 2

Ontario Court (General Division), Cavarzan J.,
February 7, 1997.

[1997] O.J. No. 969.

Judgment on appeal: Appeal dismissed
Ontario Court (General Division), Divisional Court,
Kecnan, Cumming and Somers JJ., June 3, 1999.

Judgment on motion: Motion for an order granting leave to
appeal dismissed.
Ontario Court of Appeal, Finlayson, Weiler and
O'Connor J.J.A., November 24, 1999.

Record Updated: 20000928

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