

IN THE COURT OF APPEAL OF MANITOBA

Coram: Madam Justice Janice L. leMaistre
Madam Justice Karen I. Simonsen
Madam Justice Lori T. Spivak

BETWEEN:

	)	<i>V. R. Jhanji</i>
	)	<i>on his own behalf</i>
<i>7602678 MANITOBA LTD. and</i>)	
<i>VIBHU RAJ JHANJI</i>	)	<i>R. H. Kravetsky</i>
	)	<i>for the Respondent</i>
<i>(Plaintiffs) Appellants</i>	)	<i>The Law Society of</i>
	)	<i>Manitoba</i>
<i>- and -</i>)	
	)	<i>A. W. Boumford</i>
<i>6399500 MANITOBA LTD.</i>	)	<i>on a watching brief</i>
	)	<i>for Landmhel Real</i>
<i>(Defendant) Respondent</i>	)	<i>Estate Services Inc.</i>
)	
<i>- and -</i>	)	<i>No appearance</i>
	)	<i>for the Appellant</i>
<i>LANDMHEL REAL ESTATE SERVICES</i>	)	<i>7602678 Manitoba Ltd.</i>
<i>INC.</i>)	
	)	<i>No appearance</i>
<i>(Defendant)</i>	)	<i>for the Respondent</i>
	)	<i>6399500 Manitoba Ltd.</i>
<i>- and -</i>)	
	)	<i>Appeals heard:</i>
<i>THE LAW SOCIETY OF MANITOBA</i>	)	<i>January 20, 2025</i>
)	
<i>(Intervener) Respondent</i>	)	<i>Judgment delivered:</i>
	)	<i>March 12, 2025</i>

) ***Motion under r 46.2 of***
) ***the Court of Appeal Rules***
) ***(Civil)***
)
) ***Decision pronounced:***
) ***June 18, 2025***

PER CURIAM

[1] The plaintiff, Vibhu Raj Jhanji (Mr. Jhanji), moves for an order pursuant to rule 46.2 of the MB, *Court of Appeal Rules (Civil)*, Man Reg 555/88R [the *Rules*], for a rehearing of two appeals that were dismissed on March 12, 2025 (see 7602678 *Manitoba Ltd v 6399500 Manitoba Ltd*, 2025 MBCA 24). No certificate of decision has yet been entered.

[2] The first appeal concerned the appeal of a motion judge’s order denying an extension of time to file an appeal brief to perfect an appeal of an associate judge’s decision striking Mr. Jhanji as a party to this action and barring him from representing the plaintiff, 7602678 *Manitoba Ltd*. (760).

[3] The second appeal was an appeal of an interlocutory order of a chambers judge of this Court denying the plaintiffs’ motion to (1) stay proceedings in the Court of King’s Bench; (2) disqualify counsel for the intervener, the Law Society of Manitoba (the LSM), and find him in contempt; and (3) add the attorney general as a party.

[4] Mr. Jhanji seeks to have this rehearing request heard by the Chief Justice of Manitoba for the purpose of constituting a new panel. He argues that section 22 of *The Court of Appeal Act*, CCSM c C240 [the *Act*], prevents

the panel members who decided these appeals from determining a request for rehearing or the rehearing itself.

[5] Section 22 of the *Act* provides as follows:

Judge not to sit in court reviewing own verdict or decision

22 A judge shall not sit on the hearing of an appeal from a judgment or order that the judge made.

Interdiction à un juge de réviser ses propres décisions

22 Un juge ne peut siéger en appel d'un jugement ou d'une ordonnance qu'il a rendus.

[6] In the recent decision of *Jhanji v Law Society of Manitoba*, 2025 MBCA 45 [*Jhanji*], Mr. Jhanji similarly asked to have the Chief Justice refer his rehearing motion in that matter to a different panel pursuant to section 22 of the *Act*. His request was rejected, with this Court highlighting that section 22 refers to an appeal from a judge's decision, and a rehearing is not an appeal. We adopt those reasons and are of the view that his request for a different panel to hear the present motion has no merit. As this Court explained in *Jhanji* at paras 6-7:

The appellant fails to appreciate that section 22 of the *Act* refers to an *appeal* of a judge's previous order or judgment. A rehearing is not an appeal; it is a procedure in an appeal whereby an issue or matter is raised in the yet unfinalized appeal. It is part of the appeal procedure itself and is to be determined by the panel that heard the original appeal. It would be inappropriate to refer the determination to another panel unless the first panel was in whole or in part unable to convene to hear the matter—i.e., by reason of illness or retirement, in which case one or more members of the Court would be asked to substitute.

The appellant's request to the Chief Justice to have the matter referred to another panel has no merit and he was so advised by

the Registrar. Similarly, on this request for a rehearing, it would be inappropriate for any part of the request to be referred to another panel.

[emphasis in original]

[7] Turning to the motion for rehearing itself, relevant provisions of rule 46.2 of the *Rules* provide for a rehearing of an appeal as follows:

Rehearing

46.2(1) There shall be no rehearing of an appeal except by order of the court or at the instance of the court.

46.2(2) A rehearing of an appeal may be ordered before the certificate of decision has been entered.

46.2(3) A motion requesting a rehearing shall be in writing stating the grounds for the motion, supported by a memorandum of argument.

...

46.2(9) There shall be no oral argument on the motion requesting a rehearing unless by direction of the court.

Nouvelle audience

46.2(1) Aucun appel ne peut être entendu de nouveau, sauf sur ordonnance du tribunal ou à son initiative.

46.2(2) Une nouvelle audition d'un appel peut être ordonnée avant que le certificat de décision n'ait été inscrit.

46.2(3) Une motion en vue de la tenue d'une nouvelle audience est présentée par écrit, en énonce les motifs et est accompagnée d'un exposé des arguments à l'appui.

...

46.2(9) Aucune plaidoirie n'est faite relativement à la motion en vue de la tenue d'une nouvelle audience, sauf directives du tribunal à cet effet.

[8] For the following reasons, we are satisfied that oral argument on the motion for a rehearing is not required and that Mr. Jhanji has not met the heavy burden of establishing exceptional circumstances that would warrant a rehearing.

[9] In *Willman v Ducks Unlimited (Canada)*, 2005 MBCA 13 [*Willman*], Freedman JA explained that a rehearing is to be granted only in exceptional circumstances, where the interests of justice manifestly compel such a course of action (see para 9). These situations include (*ibid* at para 10):

- 1) there is a patent error on a material point on the face of the reasons;
- 2) the appeal was decided on a point of law that counsel had no opportunity to address, and which point could not have reasonably been foreseen and dealt with at the hearing; or
- 3) the court has clearly overlooked or misapprehended the evidence or the law in a significant respect and there is a consequential serious risk of a miscarriage of justice.

[10] The basis for Mr. Jhanji's request for a rehearing is difficult to discern from the materials he has filed. To the extent that it is comprehensible, it appears to rest on a repetition of arguments made during the appeals, an assertion of facts relating to the merits of the failed real estate transaction that underlies this action, and an attack on decisions that were not part of these appeals. He provides a proposed amended statement of claim that was not the subject of either appeal and which is not properly the role of this Court to grant leave to file. He now seeks constitutional relief, incorrectly in this Court, which appears to consist of challenges to previous Court of King's Bench decisions related to this action, including that barring him from representing 760, as well as challenges to rule 26 of the MB, *King's Bench Rules*, Man Reg 553/88, and aspects of *The Contaminated Sites Remediation Act*, CCSM c C205, which were never before raised.

[11] Mr. Jhanji has failed to demonstrate an error that falls into any of the recognized categories that would justify a rehearing. A rehearing is not available to a party who merely disagrees with the result or seeks to re-argue the appeal (see *Hancock v College of Registered Nurses of Manitoba*, 2021 MBCA 59 at para 14). Nor is it an opportunity to contest unrelated and already decided matters or simply raise new issues on appeal, which are only entertained in exceptional circumstances (see *Samborski Garden Supplies Ltd v MacDonald (Rural Municipality)*, 2015 MBCA 26 at para 27).

[12] As this is not a rare case of exceptional circumstances where the interests of justice manifestly compel a rehearing, the motion for a rehearing of the appeals is dismissed with tariff costs, as requested, to the LSM.

_____ JA

_____ JA

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