

PRACTICE

COMMENCEMENT OF PROCEEDINGS

Referral of applicant Tsleil-Waututh Nation's (applicant) notice of application to Court for review under *Federal Courts Rules*, SOR/98-106, r. 74 — Court granting leave to six sets of parties to start applications for judicial review challenging Governor in Council's approval of Trans Mountain pipeline expansion project — Court order granting leave restricting applications to three questions — Applicant filing notice of application raising issues beyond restrictions in order granting leave — R. 74 allowing Court to remove document in file that violates Court order — Applicant submitting that panel of judges should be assigned to decide matter herein, that Judge who made order should not hear matter — Admitting that its application for judicial review raising issues prohibited by order — Wanting its application to be viewed as appeal from this Court to this Court — Submitting that plenary or inherent powers of Court permitting it to hear appeal from Court's ruling in *Raincoast Conservation Foundation v. Canada (Attorney General)*, 2019 FCA 224 — Judge assigned to matter having to carry out assignment unless legal reason to recuse — No legal reason to recuse herein — Not sitting on appeal from own order or revisiting it — Propositions put to counsel setting out judges' understandings, assumptions enhancing procedural fairness, increasing likelihood of decisions based on correct view of law — Here, allegations of bias falling short of mark, never should have been made — Rights to appeal never inherent or unwritten — No implied or express authorization of any appeal from order of this Court to this Court — Not open to Court to use *Federal Courts Rules*, r. 4 to create appeal rights out of thin air — Only recourse for party considering order to be wrong or "miscarriage of justice" is to seek leave to appeal to Supreme Court — Parliament not intending that all issues raised in leave motion should go forward when only three "fairly arguable" — Applicant's reassertion of arguments in its application for judicial review violating order granting leave, abuse of process — Nothing applicant raising in submissions supporting variation of order granting leave — In terms of remedy, r. 74 only providing for removal of document from court file — But under r. 55, Court may vary a rule in "special circumstances" — Special circumstances present here — Removing applicant's notice of application, closing court file setting in motion complicated, time-consuming chain of events undercutting objectives of procedural, scheduling order, causing delay, frustrating public interest — Applicant allowed to file amended notice of application for judicial review complying with restrictions in order granting leave.

IGNACE V. CANADA (ATTORNEY GENERAL) (A-321-19 (lead file), A-323-19, A-324-19, A-325-19, A-326-19, A-327-19, 2019 FCA 239, Stratas J.A., reasons for order dated September 25, 2019, 18 pp.)