

DATE: September 3, 2002  
DOCKET: M28630  
M28684

**COURT OF APPEAL FOR ONTARIO**

RE: PHINJO GOMBU (Appellant) v. TOM MITCHINSON and CITY OF TORONTO (Respondents)

BEFORE: CHARRON, SIMMONS AND ARMSTRONG J.J.A.

COUNSEL: Paul B. Schabas and Catherine Beagan Flood for the appellant  
William S. Challis and Rema J. Imseis for the respondent

HEARD: AUGUST 19, 2002

**ENDORSEMENT**

[1] The application for leave to appeal by the Assistant Commissioner raises issues in regard to the standard of review by the Divisional Court. Mr. Gombu moves to quash the application for leave to appeal on the basis that the Assistant Commissioner is without standing before the court to seek leave on the particular issues. We are of the view that leave to appeal should be granted. We are also of the view that the question raised by the motion to quash is best argued in the context of the appeal and should be determined by the panel hearing the appeal. We would therefore adjourn the issue raised by the motion to quash to the panel hearing the appeal.

[2] Costs of the application for leave to appeal and the motion to quash are reserved to the panel hearing the appeal.

[3] In regard to the time allocation counsel for the appellant shall have one hour. Counsel for the respondent shall have 40 minutes to respond to the appeal and 20 minutes to advance the argument in respect to the issue raised by the motion to quash. Counsel for the appellant shall have 15 minutes to respond to the issue raised by the motion to quash and 10 minutes to reply to the respondent on the appeal.

“Louise Charron J.A.”

“Janet Simmons J.A.”

“Robert P. Armstrong J.A.”