

The application for review arises out of proceedings in the Gympie Magistrates Court. The bank sued Owen for the sum of \$10,609.79, allegedly being moneys due and owing by Owen to the bank. It would appear from particulars supplied that most, if not all, of the indebtedness accrued through Owen's use of a Visa card.

The matter came on for hearing in the Gympie Magistrates Court on a summary judgment application. The Magistrate acceded to the bank's request for judgment and judgment was entered accordingly. The applicant had the right of appeal under section 11AB of the Magistrates Court Act 1921 to the District Court against that judgment or order. He did not exercise the right of appeal but instead sought to have the matter reviewed pursuant to the provisions of the Judicial Review Act.

The material that he has filed in support of the application tends to suggest two possible grounds for granting relief in the nature of prerogative relief. He sought to have the Magistrate disqualify himself because the Magistrate had heard another matter involving the bank and the applicant and handed down a decision in favour of the bank. That clearly is not sufficient to establish that the Magistrate was disqualified from proceeding to hear and determine the case.

The other ground on which he claims prerogative type relief is that the Magistrate refused to allow him to present oral evidence relating to his credit creation theories. All the material establishes is that the Magistrate ruled that evidence inadmissible. That was not a refusal to hear, and the question of the admissibility of that evidence could properly have been raised on an appeal. In any event, the applicant's contentions as to his credit creation theories, as disclosed in the material now before the Court, would not establish a defence in law to the claim.

Sections 12, 13 and 48 of the Judicial Review Act are relied on by the bank in support of its application to

strike out. In my view, the appeal provision of the District Court constituted adequate provision under which a Court could review the decision of the Magistrates Court. The matter was clearly one within the competency of the District Court and the matter could well have been disposed of there.

Further, a consideration of all the material filed by the applicant and the document marked Exhibit 1 does not establish any reasonable basis on which the Magistrate's decision could be attacked as being erroneous in law.

The application is entirely devoid of merits and, when one has regard to the provisions of the Judicial Review Act to which I have referred, it is my view that the matter should be summarily dismissed with costs.

The order of the Court will therefore be application for review dismissed with costs, including reserved costs.
