Party status – Aboriginal corporation seeks joinder

Ward v Western Australia [2005] FCA 523

French J, 15 March 2003

Issue
The issue in this matter was whether an Aboriginal corporation should be joined as a party to a claimant application.

Background
The Miriuwung Gajerrong Families Heritage Land Council Aboriginal Corporation (the Corporation) applied to become a party to the Miriuwung Gajerrong (No 4) application by reference to:

- s. 106(2) of the *Land Act 1933* (WA) (taken to refer to s. 104 of the *Land Administration Act 1997* (WA), which creates a reservation in favour of Aboriginal persons over certain lands);
- sections 5 and 6 of the *Aboriginal Heritage Act 1972* (WA) (AHA) (which applies to places of significance to persons of Aboriginal descent and to objects of significance) and s. 50 of the AHA (which relates to the appointment of honorary wardens); and
- 'improper authorisation' under s. 251B of the NTA—at [6] and [7].

Justice French found that the evidence did not provide any support for the proposition that the Corporation has any relevant interest which would warrant its joinder as a party:

> The reservation under s. 104...confers a general right upon Aboriginal persons which would be unaffected by any native title determination. The appointment of honorary wardens...is a matter in the discretion of the Minister. It has no logical connection with any interests of the Corporation. So far as the question of authorisation is concerned, that is not a matter which goes to the standing of this Corporation to become a party. Challenges to authorisation are matters which can be raised in other ways, but certainly not by the process of joinder—at [8].

Decision
French J held that the Corporation should not be joined as a party to the application.