
CANADA / JUDGMENT

B.K.G. v. H.S.G.

2013 BCSC 1942

COURT

Supreme Court of British Columbia

DECIDED

2 October 2013

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2013 BCSC 1942 B.K.G. v. H.S.G.

IN THE SUPREME COURT OF BRITISH COLUMBIA

Citation:

B.K.G. v. H.S.G.,

2013 BCSC 1942

Date: 20131002

Docket: E36034

Registry: New Westminster

Between:

B.K.G.

Claimant

And

H.S.G.

Respondent

Corrected Judgment: The text of the judgment was corrected at paragraphs 82 and 88 on November 21, 2013.

Before: The Honourable Mr. Justice Verhoeven

Reasons for Judgment

(Delivered Orally)

Counsel for the Claimant:

C. Sabharwal

Appearing on his own behalf:

The Respondent, H.S.G.

Place and Dates of Trial:

New Westminster, B.C.

October 2, 2013

Place and Date of Judgment:

New Westminster, B.C.

October 2, 2013

[1] THE COURT: The issues in this family law case are:

- (a) custody, guardianship, and parenting arrangements in respect of the parties' daughter;
- (b) division of property;
- (c) spousal support claims of the mother; and
- (d) child support.

I. Background Facts

[2] For convenience, I will refer to the parties as the mother and the father. The mother is the claimant and the father is the respondent.

[3] Both parties are Sikh. They were both born and raised in the Punjab region of India.

[4] The father moved to Canada in 2006 at the age of 24. For the first few years he resided with his sister and her husband in Calgary, Alberta. He now lives with his older brother, his brother's wife, and their two young children.

[5] The parties were married January 5, 2008, in Nawanshahr in the Punjab region of India. Their marriage was arranged through the mother's cousin. They met for the first time only a few days before the wedding. The father returned to Canada in February 2008, about four to six weeks after the marriage. By the time of his departure the mother was pregnant with their child. The child was born in late October 2008.

[6] The mother and the child immigrated to Canada in late February 2010, on an immigration sponsorship of the father. They resided in Calgary with the father, his sister, and her family. However, the relationship between the mother and the father was acrimonious and did not last. After only a few months, in July 2010, the parties separated when the mother departed with the child and moved to Surrey, B.C. They initially resided with a cousin of the mother's. The father remained in Calgary. He has seen the child on only three occasions since separation. The mother has resided in Surrey, where she now rents a basement suite in a home owned by a Punjabi Sikh family. The child is now almost five years of age, and has

recently started kindergarten.

- [7] Although the father continues to wish to reconcile, he has resigned himself to the mother's wish to divorce, and he does not oppose the order for divorce. Indeed his response to the mother's notice of family claim indicates he agrees to the divorce. I am satisfied that there is no possibility of reconciliation and that the grounds for divorce are established in the evidence.
- [8] The most significant issue is custody, guardianship, and parenting arrangements for the child. The mother seeks sole custody under the Divorce Act, R.S.C. 1985, c.3 [Divorce Act], sole guardianship under the Family Law Act, S.B.C. 2011, c. 25 [the FLA], and that the father's access or contact with the child be supervised, at least until such time as the father and the daughter become familiar with each other.
- [9] The father did not file a counterclaim, and was self-represented at trial. His response, filed through Alberta legal counsel in August 2012, states that the child should be returned to Alberta, and if the mother is residing there, and employed, then the child should be in the primary custody of the mother, with reasonable and generous access to the father, but if the mother remains unemployed, then primary residence and custody should be with the father, with reasonable and generous access to the mother. At trial, the father's position was that, assuming that the mother does not wish to reconcile and move to Alberta, he should have sole custody of the child in Alberta.
- [10] The property issues are relatively minor.
- [11] The mother has worked for only about eight to 10 weeks since arriving in Surrey in July 2010. She has been supported largely by social assistance payments from the Government of British Columbia. She remains unemployed although she hopes to obtain work soon as a kitchen helper in a pizza restaurant, where she will earn \$11.00 per hour. In the longer term, she hopes to obtain a diploma or a certificate in early childhood education and open a daycare centre or work as a teacher.
- [12] The father has not paid any child support. However, under the terms of his sponsorship, he is responsible for repaying the Government of British Columbia for a period of three years following the arrival of his wife and child in Canada in February 2010. Pursuant to that obligation he owes the Province of B.C. \$28,972 to February 2013. He has not paid any of the amount owing.
- [13] At a Judicial Case Conference on July 23, 2012, where both parties were represented by legal counsel, the father agreed to pay child support in accordance with the Federal Child Support Guidelines (FCSG) retroactive to the date of separation, July 12, 2010, and an order was made to that effect. He has not paid anything pursuant to the order. The mother seeks enforcement of that order and a determination of future child support.

II. Analysis

A. Custody, Guardianship, Parenting Arrangements

- [14] The child is happy and healthy living with her mother in Surrey. The landlord family living upstairs has two sons who are approximately her age. The children play together. The families spend evenings together. Ms. Gill, the mother of the family that owns the house, testified that the claimant is a very good mother and is very attached to her child.
- [15] The mother has some relatives and friends in the Lower Mainland area of British Columbia. As noted, when she first left Calgary in 2010, she went to Surrey to live with her cousin and her cousin's husband in the basement of their home. She has developed a friendship with another cousin and her family who reside in Abbotsford. She has an uncle in Vancouver. She has developed a friendship with a man, Mr. Dhaliwal, who was her driving instructor and who now is in a sense a surrogate father to her and grandfather to the child. Like Ms. Gill, Mr. Dhaliwal testified to the very close relationship between the mother and the child.
- [16] The mother's own parents remain in India. She has two brothers. One brother resides near Toronto and the other resides in Brisbane, Australia.
- [17] As noted, the child is attending kindergarten. She is expected to attend a nearby elementary school starting September 2014. In addition to her schooling, she enjoys dance and takes swimming lessons. She would like to learn ice skating. Her mother has a master's degree in Punjabi literature, and is also learning English. She is helping the child learn Punjabi. The child also speaks English. She made friends at her daycare and has friends at school and outside of school. She is interested in computer games. She says that she would like to be a medical doctor. Her extracurricular activities have been limited and her living standards have been modest due to her mother's severe financial constraints.
- [18] As noted, the mother has not worked very much since arriving in British Columbia, but hopes to find full-time work soon. Her pay will likely remain quite low unless she retrains. However, she is well on her way to learning English. She is highly educated in India, and may perhaps find a vocation that is more remunerative and rewarding than what she has obtained so far.
- [19] Other than herself, the mother's only witnesses were Ms. Gill, Mr. Dhaliwal, and an Abbotsford relative, Mr. Pabla. None of these witnesses is familiar with the father. None knew the mother before she moved to British Columbia. All gave brief evidence to the effect that the mother is a good and loving mother and that the child is happy and well-adjusted.
- [20] The father continues to reside in Calgary, but now lives with his older brother, sister-in-law, and their two young children. His mother also resides in the same household. The family lives communally. Previously the father and his mother lived with the father's older sister in Calgary, and her family, including her husband and three young children. His sister and his brother live very close to each other. His father passed away many years ago. He testified to having two maternal uncles residing in Calgary. In total, he has about 20 to 25 relatives in Calgary.

- [21] The only other witness for the father (other than himself) was his mother. She would have a larger responsibility for taking care of the child in Calgary as the father works full-time. She testified that she would take good care of her and would love her more than herself.
- [22] The father worked in agriculture in India before arriving in Calgary. He has a high school education and a diploma in welding obtained in India. He has worked quite steadily in a succession of jobs in Calgary. Most of these jobs have been at fairly low rates of pay, but since July 2012 he has worked as an assembler for a large company, earning good pay of about \$20 per hour, plus overtime and benefits. This job is quite secure. He has investigated working as a truck driver which he hopes would earn more. He has taken some ESL courses and his English language skills are fair. He testified in Punjabi, as did all the witnesses.
- [23] The father has had only limited contact with the child since her birth. When she was born in October 2008, he was in Canada. He saw the child in India when he was there for about a month in April 2009, and then did not see her again until she arrived with her mother in Canada in late February 2010. Her mother took her to Surrey a few months later, in July 2010, and the father has seen her only quite briefly three times since then, when he has come to Surrey. The mother's position lately has been that the father should be limited to supervised access in Surrey. The father has not taken up this offer. Not surprisingly, the child has little or no memory of her father and her father's family, and has no relationship with them.
- [24] As noted, the mother contends that in the child's best interests the father should not have custody or guardianship, and that his contact with the child should be supervised, at least initially, until a relationship between them is established.
- [25] She contends that the father has had little genuine interest in his daughter, that he has utterly failed and refused to support her financially, and that he has been guilty of conduct constituting family violence, in particular considering the broad meaning of family violence set out in s. 1 of the FLA.
- [26] She points to the requirement to consider the impact of family violence in determining the child's best interests pursuant to s. 37 of the FLA. She says that during their short relationship the father would sometimes slap or hit her, and that while they were in residing in Calgary, he also slapped or hit the child. She also alleges that he was guilty of family violence in other ways within the meaning of s. 1, such as by threats to her, sexual abuse, and controlling her behaviour and personal financial autonomy.
- [27] The father denies all allegations of violence. In summary, he says that his wife's testimony is "all lies". His mother also testified that there was no violence of any kind.
- [28] The mother argues that the father's evidence lacked credibility on key points, and that her evidence should be preferred.

- [29] The mother testified at great length concerning her allegations. Regrettably, this involved testifying about the details of many instances and circumstances that occurred during their short relationship, all of which were to a greater or lesser extent disputed by the father. In general, there is very little corroboration of these instances one way or another. As a result, I am forced to rely substantially on my own impressions of the parties, in the context of all of the facts and circumstances of the case.
- [30] I formed the impression that the mother's evidence has to be approached with a great deal of caution. In my view, much of her evidence relating to the father's alleged misconduct was tailored to achieve certain purposes. First, to justify her decision to leave her husband's family residence in India within a few weeks of his departure for Canada in February 2008, shortly after the wedding, and to reside with her parents for all but one month until she moved to Canada in February 2010. Second, to challenge the father's assertion that she duped him into marrying him and sponsoring her immigration to Canada. Third, to justify her decision to separate from the father and to decide unilaterally to move to Surrey the next day with the child. Finally, to keep the father's involvement in her daughter's life to a minimum.
- [31] In my view, her evidence concerning the most serious family violence is not reliable. If it is not entirely fictional, then it is likely exaggerated.
- [32] In general, the father and most members of his family were portrayed in her evidence as uncaring, grasping, greedy, selfish, and cruel.
- [33] I accept that the parties did not have a happy marriage from the very beginning. In my view the couple are likely just unsuited to each other. It seems to have been a mismatch.
- [34] The mother contends that her husband controlled her manner of dress and her financial autonomy. My impression was that there was likely some truth in these allegations. Some of these assertions must be seen in a cultural context, however. I was not surprised to hear that the father was concerned about the modesty of his wife's attire. Many things in the relationship were governed by cultural traditions. The marriage itself was arranged of course.
- [35] However, the mother also contends that even right after the marriage, during their first few weeks together, and subsequently, he would hit, slap and push her, tear her clothing and yell obscenities at her. She testified that this kind of behaviour occurred again in April 2009, when he returned to India, and in Calgary in 2010. She also testified that his sister and his mother would participate in the physical assaults she sustained while residing in Calgary. She says that she was threatened with the use of a knife against her and her daughter. She says that the father slapped and pushed the child and that on one occasion the child was injured and suffered a cut or abrasion requiring a bandage. She also says that her mother-in-law and her sister-in-law would not take proper care of the child while she was away at work, and would even take milk from her and throw it away.

- [36] She says that in Calgary she sustained physical bruises which were witnessed by the father's cousin. However, I did not hear from the cousin.
- [37] She contends that while in Calgary her mother-in-law knowingly administered a traditional Indian medicine, or substance of some kind, for the purpose of inducing a miscarriage. She says that she did in fact sustain a miscarriage in Calgary. I am not satisfied on the evidence that she did sustain a miscarriage, and much less that her mother-in-law gave her a substance intended for that purpose or that could have that result.
- [38] She says that her mother-in-law slapped her across the face and grabbed her arm when the mother-in-law overheard her telling her brother on the telephone about everything she was being subjected to in Calgary. She says that she was threatened, and was afraid, and decided to call the police. The police attended. She spent the night at the father's uncle's residence. The next day, with the assistance of a stranger, she flew to Surrey to stay with her cousin. She says that she felt unsafe and that is why she had to leave Calgary. I think it likely that she was simply very unhappy, and wanted to leave and live somewhere distant from her husband and his family, who she very clearly does not like.
- [39] As noted, the father and his mother deny all allegations. There is no medical, police, or other corroboration.
- [40] I find many of her allegations difficult to accept, or at the very least to be exaggerated. For example, she testified that the father used opium regularly both in India and in Calgary. He denies this. She says that he drank alcohol to excess. The evidence in this respect was vague. He admits drinking alcohol occasionally in the past. I do not accept that he used opium in the past or that he has abused alcohol as alleged.
- [41] Recently however he has become more devout in his religion and has become a "Sardar" or a "baptised Sikh", which means among other things that he has become vegetarian, does not drink alcohol, does not cut his hair, and wears a turban.
- [42] The mother contends that the father engaged in illicit sexual behaviour with his sister-in-law (his older brother's wife) during his visit to India in April 2009. She made this allegation at the time, which led to much acrimony in the family. This contention is denied, and is hard to accept in view of all the circumstances, including the continued close relationship between the father, his elder brother and his elder brother's wife, with whom he continues to reside.
- [43] There may, however, be some degree of truth in parts of what the mother contends. For example, she contends that the father wanted her to have gender testing when she was pregnant, and he was unhappy when he found out that she lied about having this done when the child was born female. This does better explain the father's behaviour in cancelling the mother's immigration sponsorship, and by extension that of his daughter, shortly after her birth. However, while in India a few months later, he was pressured by the mother and her family to reinstate the application, which he quickly did. Thus, if he was initially

disappointed about his child being female, he soon got over it.

- [44] The father made no effort to prevent the mother's departure to Surrey in July 2010, and offered to pay her transportation costs. He gave her \$500 in cash. She adverts to this as evidence of his disinterest in his daughter. I do not accept that interpretation; in any event, it is not consistent with an excessively controlling personality on his part.
- [45] The father's credibility is also highly questionable. This is most clear and obvious in relation to financial matters. His financial statement is almost completely unreliable. His financial disclosure has been incomplete. I am satisfied that he has not been entirely forthcoming or truthful in this respect. For example, he recently purchased a townhouse in a Calgary suburb, for which a down payment of \$10,000 to \$15,000 was required. The source of these funds was not disclosed. His testimony concerning this topic was inconsistent and not credible.
- [46] For some strange reason he was not truthful on examination for discovery concerning his place of residence. He testified that he continued to reside with his sister when in fact he was already residing with his brother.
- [47] He denied all negative allegations made by the mother. I did not always accept his responses.
- [48] I must bear in mind that under the FLA, s. 37(4), a person's conduct is only to be considered if it substantially affects a factor listed in s. 37(2), and only to the extent that it effects that factor. Section 16(9) of the Divorce Act is to similar effect. The real question before me is to determine what parenting arrangements are in the best interests of the child, bearing in mind all relevant circumstances, including those set out in s. 37(2). The inquiry into the past conduct of the parties is not an end unto itself.
- [49] I must decide whether the father is prone to violence as the mother asserts, and whether, on that basis, only supervised access should be allowed, at least for some interim period of time. Section 37(3) of the FLA requires that the order I make protects, to the greatest extent possible, the child's physical, psychological and emotional safety, security and well-being.
- [50] I must also ask myself whether the father's expressed desire for custody or access is sincerely made in the best interests of the child. The mother contends that he is not sincere in this respect. His expressed continued desire for reconciliation raises a concern that he might want custody only as a means to force the mother to return to Calgary, perhaps to resume their relationship.

- [51] It could be that the father's motivations are somewhat mixed. No doubt he is aware that if the child resides primarily with him he will not have to pay child support. Although he denies it, he may continue to harbour some degree of ill-will towards the mother over her decision to end the marriage. However in my view, the mother's motivations are also mixed. It seems to me that she has her own reasons for preferring that the father and his family have little or no relationship with the child.
- [52] Although I place little weight on the mother's allegations of family violence, in case I am wrong, I will assess the family violence in light of the factors set out in s. 38 of the FLA. Those factors are:

38 For the purposes of section 37 (2) (g) and (h) [best interests of child], a court must consider all of the following:

- (a) the nature and seriousness of the family violence;
- (b) how recently the family violence occurred;
- (c) the frequency of the family violence;
- (d) whether any psychological or emotional abuse constitutes, or is evidence of, a pattern of coercive and controlling behaviour directed at a family member;
- (e) whether the family violence was directed toward the child;
- (f) whether the child was exposed to family violence that was not directed toward the child;
- (g) the harm to the child's physical, psychological and emotional safety, security and well-being as a result of the family violence;
- (h) any steps the person responsible for the family violence has taken to prevent further family violence from occurring;
- (i) any other relevant matter.

[53] The evidence of actual physical violence directed by the father at the child was very limited, well in the past (albeit there has been no recent opportunity), and was not credible. There is no evidence of any harm to the child.

[54] There is no evidence of any propensity to violence or abuse on the part of the father or any members of his family. He has no criminal record. He works steadily. There is no history of serious emotional or psychological dysfunction. The father testified that when the separation occurred, he felt a "little bit upset" for several months after his wife left him. He felt that this should not have happened to him. He did not feel like going to work. I infer that, unsurprisingly, he may have been depressed. He did not seek professional help. He acknowledged making what amounts to a suicide threat when he came to B.C. in August 2010. The mother complains that he used to phone her very frequently and was essentially harassing her by such means. There may be truth to this, but the behaviour has ceased.

- [55] I do not consider that the father or any member of his family with whom the child would associate would present any real threat to the child's safety or welfare. I accept that, while his association with his daughter to date has been limited, at this stage he truly loves her and wishes to have a loving parental relationship with her, and that he sincerely has her best interests at heart. I also accept that his mother would love her granddaughter and take care of her to the best of her ability.
- [56] I do not accept that there is a basis to impose only supervised access. In this respect, I refer for legal guidance to the decision of Madam Justice Griffin in *F.K. v. M.K.*, 2010 BCSC 563 at paras. 142-150, which provides a helpful summary of the legal principles.
- [57] At this stage, in all the present circumstances, and having regard in particular to the factors set out in s. 37(2) of the FLA, it is in the best interests of the child that she remain in the custody of her mother in British Columbia, and that she primarily reside with her. However, it is also in the best interests of the child that she develop and maintain a healthy, positive and loving relationship with her father and his family. In order for this to occur, she must spend a significant amount of time with him in Calgary. Given that she resides here and goes to school here, from a practical point of view this means she will have to spend time in Calgary during school vacations. The father may also choose to have parenting time with her in British Columbia when he can. This will most conveniently and practically be accommodated on long weekends.
- [58] I see no reason why the father should not continue to be the guardian of the child pursuant to the provisions of the FLA. It is in her best interests that he continues to be a guardian, with the rights and responsibilities set out in the order of this Court and the legislation.
- [59] The parties do not communicate. They are likely to have difficulties in doing so in the child's best interests. Practical issues such as exchanges and vacations must be worked out. Decisions in the child's best interests may need to be made. In my view, a parenting coordinator is likely needed.
- [60] The parties have not taken Parenting After Separation courses and must do so in the child's interests.
- [61] I am concerned that the mother may have difficulty accepting my decision. Her ties to Canada remain somewhat limited. She has no employment or assets here, and her closest relatives are elsewhere. Subject to the agreement of the parties, or until further order of the Court, neither party may remove the child from British Columbia or Alberta.
- [62] In light of the foregoing, the order for custody, guardianship and parenting arrangements will be as follows:
1. The mother will have sole custody of the child under the Divorce Act and the child shall reside primarily with her.
 2. Both parties shall remain guardians of the child pursuant to the FLA.

3. In the event of the death of either guardian, the surviving guardian will be the only guardian of the child and will have all parental responsibilities with respect to the child.
4. The parties are ordered to complete the British Columbia Parenting After Separation course, or, in the case of the father, the Alberta equivalent if available.
5. The parties shall use the services of a parenting coordinator in accordance with ss. 14 through 19 of the FLA. If the parties cannot agree on a choice of the parenting coordinator, they will have liberty to apply to Court.
6. Subject to the directions of the parenting coordinator, the father will have parenting time with the child as follows:
 - (a) a minimum of four weeks during the summer vacation from school;
 - (b) during the winter school vacation in alternating years beginning in December 2013;
 - (c) during spring break in alternating years beginning in 2015;
 - (d) in a year in which the father is not entitled to parenting time over winter school vacation, he may exercise parenting time with the child in or near Surrey, B.C. of at least three days during the winter school vacation;
 - (e) the father may exercise parenting time in or near Surrey, B.C., for three days on up to six long weekends per year ("long weekends" to include weekends in which there is no school on the Friday or Monday preceding or following the weekend);
 - (f) the father must give notice of his intention to exercise such Christmas or long weekend parenting time in or near Surrey, B.C., at least 30 days in advance; and
 - (g) such other times as may be agreed to between the parties, which shall be as generous as the circumstances permit.
7. Reasonable transportation costs for the child to travel to and from the father's residence in Alberta for winter holidays, spring break and summer vacations shall be borne by the guardians in proportion to their incomes. These costs shall include the costs of the accompanying guardian or other necessary adult companion.
8. The father shall have liberal telephone and internet video (Skype and the like) communications with the child.
9. Subject to ss. 65 to 71 of the FLA, the mother may not relocate the child's primary residence from Surrey, B.C. or any community within 30 kilometres of Surrey, B.C., without the agreement of the father or order of the Court; the father may not relocate the residence at which the child resides during parenting time with him, from Calgary or any community within 30 kilometres of Calgary, without the agreement of the other guardian or Court order.

10. Neither guardian may remove the child from British Columbia or Alberta without the express written agreement of the other party or Court order.
11. The guardians will exercise all parental responsibilities with respect to the child on the following terms:
 - (a) during parenting time, the guardian may exercise the parental responsibility of making day-to-day decisions affecting the child and having day-to-day care, control and supervision of the child;
 - (b) each guardian will have the obligation to advise the other guardian of any matter of a significant nature affecting the child;
 - (c) each guardian will have the obligation to discuss with the other guardian any significant decisions required concerning the child, including significant decisions about her health (except emergency decisions), education, religious instruction and general welfare;
 - (d) the guardians are obliged to try to reach agreement on such decisions;
 - (e) in the event that the guardians cannot reach agreement on a significant decision despite their best efforts, the mother will be entitled to make such decisions and the father will have the right to apply for directions on any decision that he considers contrary to the best interests of the child under s. 49 of the FLA;
 - (f) each guardian will have the right to obtain information concerning the child directly from third parties, including but not limited to teachers, counsellors, medical professionals and third party caregivers;
 - (g) subject to any applicable provincial legislation the mother shall be responsible for:
 - i. starting, defending, compromising or settling any proceeding relating to the child; and
 - ii. identifying, advancing, and protecting the child's legal and financial interests;
 - (h) the mother shall be solely responsible for applying for a passport, licence, permit, benefit, privilege or other thing for the child.

B. Property

[63] There are three issues:

1. the joint debt;
2. the father's condominium; and
3. the gold jewellery.

- [64] The father has accumulated about \$42,000 debt on a Royal Bank line of credit. He contends that this is a family debt. He says that it was incurred after the marriage and prior to separation when he suffered a financial setback and he had to pay living expenses and fund payments to India to support his wife and daughter while they were still there.
- [65] There is no documentary evidence to support the father's assertions regarding the purpose to which the funds were put. He was more or less steadily employed at all material times. To the extent that he was not working or earning less at times, he was living with family and could curtail his expenses. His financial disclosure has been incomplete and his evidence concerning financial matters is unreliable. I do not accept that the debt is a joint obligation of the parties.
- [66] The father purchased a condominium in Cochrane, Alberta in June 2013. He testified that the mortgage amount is \$252,816. There is no evidence as to the market value of the property. Due to its recent purchase, I infer that there has likely been little if any inflationary increase in its value. The mother contends that it is a family asset as it was purchased with family assets. There is no proof of this assertion. The father testified that he paid a down payment of \$10,000 to \$15,000 from accumulated savings. He produced no bank records to support this. In cross-examination his evidence changed, and he asserted that most of the down payment was provided by unnamed friends. I do not consider his evidence concerning the purchase of the condominium credible. However, I am not satisfied that it was purchased or financed with family assets, nor does the evidence establish any value in excess of the mortgage. No order in respect of the condominium is justified.
- [67] The mother contends that she left gold jewellery belonging to her and the child at the father's Calgary residence. The father and his mother (who supposedly held the jewellery for safe-keeping) denied that any jewellery belonging to the mother is in their possession. The mother's financial statement refers to two necklaces, two pairs of earrings, four bangles, one gold chain, and one gold chain belonging to the child. In her evidence she estimated that this gold jewellery would have weighed about 13.5 tolas, an Indian unit of measurement equivalent to 11.664 grams. Thus, the total weight on this estimate would be about 5 troy ounces. I am urged to make an order in the mother's favour in relation to this based upon the market value of the gold. The current value of gold is not in evidence. There is no satisfactory evidence concerning the existence of the jewellery, its present whereabouts, or its value. On the evidence, there is no satisfactory basis upon which to make an order of any kind regarding the gold and I decline to do so.

C. Spousal Support

- [68] The mother claims spousal support. The father says that the mother is capable of working and has not done so.

- [69] Pursuant to his sponsorship of the mother and child, the father agreed to support them for three years, as noted. As a result, the father is obliged to pay the Government of British Columbia for the social assistance the mother received. He owed \$28,972 to February 2013. Although he has not paid any of the claim, he does not dispute the obligation.
- [70] Prior to the marriage, the mother worked in India as a teacher and a dance instructor. Upon the marriage, she stopped working and did not resume working while in India. She soon had child care duties. In Calgary she worked for about two months at a McDonald's restaurant. As noted, in British Columbia she has worked for only a few weeks in total. She testified that in early 2013 she worked for seven or eight weeks at a plant nursery, packing and pruning for \$10 per hour, but was injured on March 8, 2013, and has not worked since. She has recovered but says the nursery work was seasonal and is no longer available. She has been looking for work in fast food restaurants and warehouses. She hopes to obtain work at a pizza restaurant. In that job she would be paid \$11 per hour. The work is full-time. At this rate of pay she would earn an annual income of about \$21,000. In the longer term, she hopes to take a program of study in early childhood education and open a daycare centre or teach young children. The program would take 13 to 15 months to complete and cost \$15,000. She hopes to begin the program at some point in future when her financial resources allow it. She hopes that her parents in India or her brothers might provide funding.
- [71] I consider it appropriate to impute an income of \$21,000 to the mother. She is healthy, intelligent and well-educated, has made good progress in ESL, has learned to drive, and has had several years to adapt to life in Canada. The child has now commenced kindergarten, and will be in school soon. Her child care obligations have diminished and should be manageable, although somewhat limiting as always, especially if she continues to be unpartnered.
- [72] After a succession of relatively low-paying jobs, the father now earns about \$55,500 per annum in his current job.
- [73] The marriage was short. The parties were married for about two and a half years. Most of that time the mother lived with her parents in India. They cohabited for a total of about nine months. At the time of the marriage, the couple planned for the mother to come to Canada to join the father, which she in fact did, after some delay.
- [74] Considering the relevant factors and objectives of spousal support set out in s. 15.2 of the Divorce Act and ss. 160 to 166 of the FLA, in my view the father has an obligation to pay spousal support, but it is quite limited. The Spousal Support Advisory Guidelines indicate that in the case of an income of \$56,256 for the father and \$20,800 for the mother, with child support, spousal support would range from a low of \$52 per month to a high of \$424. Mid-range is \$232 per month with a duration ranging from two to 14 years from the date of separation.

[75] In my view, however, the father's obligation to repay the government for the social assistance payments made to the mother notionally takes the place of his spousal support obligations to the end of February 2013 when that obligation ceased. The father should pay for an additional year at the mid-range of \$232 per month. It is simplest if this is paid in a single lump sum. As a result, I order that the father pay a lump sum of \$2,784 for spousal support. The father's spousal support obligations will terminate with payment of that amount.

D. Child Support

[76] Pursuant to the Judicial Case Conference order of July 23, 2012, the father is obligated to pay child support retroactive to the date of separation, July 12, 2010, based on his annual income. That obligation continues.

[77] The father shall pay child support pursuant to the FCSG, which currently amounts to \$457 per month. Payment of that amount will commence November 1, 2013. I accept the retroactive child support calculation presented by the mother, which indicates that the amount of unpaid retroactive child support was \$8,214 to the end of 2012, at the rate of \$257 per month during 2012. Unpaid payments for the first ten months of 2013 at the same amount are \$3,084. The total unpaid child support the father owes to the mother is \$11,298.

[78] I order that the parties exchange copies of their annual tax returns and notices of assessment by June 30 every year, and that the child support payments be adjusted effective July 1 of each year based on the prior year's incomes. The parties will share special and extraordinary expenses in accordance with their incomes and in accordance with s. 7 of the FCSG.

E. Divorce

[79] There will be an order for divorce.

III. Conclusion

[80] The parties will have liberty to apply for clarification of any part of this decision or for further directions that may be required.

[81] Success has been divided. Subject to submissions of the parties, each party will bear their own costs. The effect of this is that pursuant to the Supreme Court Family Rules, B.C. Reg. 169/2009, R. 16-1(11), the hearing fees are to be shared equally between the parties. That is the appropriate disposition in this case and I so order. Although the father's income is higher, the mother's evidence absorbed more time at the trial. Other relevant considerations include the multiplicity of factual issues raised by the mother, and the father's lack of full and accurate financial disclosure. On the other hand, the mother brought this matter to trial, which is to the benefit of the child.

- [82] H.S.G., you heard the decision. That concludes it. A transcript will be prepared in due course and will be available in that form.
- [83] Ms. Sabharwal, any questions?
- [84] MS. SABHARWAL: For the costs of the parenting coordinator, Your Lordship, that is to be shared?
- [85] THE COURT: I made -
- [86] MS. SABHARWAL: Pursuant to the FLA I believe it's the parties' -
- [87] THE COURT: Yes. I made no order about the costs of the parenting coordinator. I recall now that you made some submissions about that. Do you have a submission now about that?
- [88] MS. SABHARWAL: I think initially at least H.S.G. should bear the costs of that given the incomes of the parties. As I advised the Court during my submissions B.K.G. doesn't have the funds -
- [89] THE COURT: Right.
- [90] MS. SABHARWAL: - to put towards that.
- [91] THE COURT: Right. However, I just made an order that the father pay some significant amounts of money including retroactive money, so on that basis I don't think I should order him to pay an upfront amount for the parenting coordinator. So the order I would make with respect to the parenting coordinator is that the costs of the parenting coordinator be shared in accordance with the parties' incomes.
- [92] Anything else?
- [93] MS. SABHARWAL: No, Your Lordship, not at the moment.
- [94] THE COURT: Thank you.
- "Verhoeven J."

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