

CANADA / JUDGMENT

Bajwa v. Bajwa

2025 BCSC 1752

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Supreme Court of British Columbia

DECIDED

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2025 BCSC 1752 Bajwa v. Bajwa

IN THE SUPREME COURT OF BRITISH COLUMBIA

Citation:

Bajwa v. Bajwa,

2025 BCSC 1752

Date: 20250909

Docket: E200626

Registry: Vancouver

Between:

Jamal Habib Bajwa

Claimant

And

Tayyaba Tariq Bajwa a.k.a. Tayyaba Jamal Bajwa

Respondent

And

Habib Ullah Bajwa and Shamim Akhtar Bajwa

Respondents by Counterclaim

Before: The Honourable Justice Lamb

Reasons for Judgment re: Costs

Counsel for the Claimant:

L. Rudovica

Counsel for the Respondent:

E. Jalilian

Counsel for the Respondent by Counterclaim

N. Kamoosi

Place and Date of Trial:

Vancouver, B.C.

March 26, 2025

Place and Date of Judgment:

Vancouver, B.C.

September 9, 2025

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Overview

- [1] Following a 13-day trial, I issued reasons for judgment in this family law action on August 7, 2024: *Bajwa v Bajwa*, 2024 BCSC 1428 (the "Reasons"). Most significantly, I dismissed the respondent's claim against the claimant's parents (the "Parents") that a residence in Surrey they legally owned (the "Surrey Property") was family property. This was the most contentious issue at trial. In addition, I made parenting orders related to the parties' daughter and support orders, and I determined family debt.
- [2] As part of the Reasons, I granted leave to the parties to make further submissions on costs.
- [3] As against the respondent, Tayyaba Bajwa ("Dr. Bajwa"), Jamal Bajwa (the claimant) seeks an order for special costs or alternatively double costs from the date of an offer to settle made October 22, 2023. Offers made December 1, 2022 and May 30, 2023, did not include any reference to having potential cost consequences and cannot give rise to an order for double costs.
- [4] As against the Dr. Bajwa, the Parents seek an order for special costs or alternatively increased costs.
- [5] Alternatively, both Jamal Bajwa and the Parents ask me to assess costs summarily if I decline to make the other costs order sought.
- [6] Dr. Bajwa says she and Jamal Bajwa should bear their own costs. Dr. Bajwa asks the court to exercise its discretion and not award costs in favour of the Parents. Alternatively, Dr. Bajwa submits that costs against her should be limited to three days of trial as opposed to 13 days of trial.
- [7] In considering issues of costs, I have not ignored the family law context in which these claims were advanced and agree with Madam Justice Ballance that "a reasonable dose of forgiveness should be afforded to family law litigants in evaluating their alleged misbehaviour in litigation": *D.R. v. E.P.R.*, 2016 BCSC 550 at para. 75. As noted at para. 6 of the Reasons, the family connections in this case are extensive, which means all parties will continue to be connected despite the breakdown of the parties' marriage. In addition, the parties face significant stress as the parents of a terminally ill child and a child with mental health challenges (which affects Dr. Bajwa's earning capacity) in addition to the financial stress faced by both Dr. Bajwa and Jamal Bajwa over the course of their relationship and beyond. I recognize that sympathy for one party has no place in the exercise of my discretion regarding costs, but the factual context in which I exercise my discretion is relevant.

- [8] I will first consider whether Jamal Bajwa and the Parents are entitled to costs. I will then briefly outline the legal framework for special costs before addressing the special costs claims of both Jamal Bajwa and the Parents. I will then address Jamal Bajwa's claim for double costs and the Parents' claim for increased costs before explaining why I am not inclined to assess costs summarily.

Were Jamal Bajwa and the Parents substantially successful in the action?

- [9] Rule 16-1 of the Supreme Court Family Rules is the general rule concerning costs. The effect of Rule 16-1(7) is that costs must be awarded to the successful party unless the court otherwise orders. In this context, "success" means substantial success, which occurs when the prevailing party succeeds on 75% or more of the matters in dispute, considered on a global basis: *Marquez v Zapiola*, 2014 BCCA 35 at para. 16.
- [10] In *Fotheringham v. Fotheringham*, 2001 BCSC 1321, leave to appeal ref'd 2002 BCCA 454 at para. 46, Justice Bouck proposed a four-step inquiry to determine whether costs should be awarded to either party:
1. First, by focusing on the "matters in dispute" at the trial. These may or may not include "issues" explicitly mentioned in the pleadings.
 2. Second, by assessing the weight or importance of those "matters" to the parties.
 3. Third, by doing a global determination with respect to all the matters in dispute and determining which party "substantially succeeded," overall and therefore won the event.
 4. Fourth, where one party "substantially succeeded," a consideration of whether there are reasons to "otherwise order" that the winning party be deprived of his or her costs and each side then bear their own costs.
- [11] The most contentious issue at trial was whether the Surrey Property was family property for the purposes of division under s. 85 of the Family Law Act, S.B.C. 2011, c. 25. This was the only issue for the counterclaim against the Parents. It is clear the Parents were substantially successful at trial.
- [12] The question of substantial success as between Dr. Bajwa and Jamal Bajwa is slightly more complicated. Jamal Bajwa succeeded on the most significant financial issue, i.e., the Surrey Property issue. Further, Jamal Bajwa was successful on the following issues:
- a) Equal parenting time for both children;
 - b) Imputation of Guidelines income to him of \$30,000 (as opposed to imputation of \$100,000 as sought by Dr. Bajwa);
 - c) An award of retroactive child and spousal support (though less than the amount sought); and
 - d) Ongoing award of spousal support based on compensatory and non-compensatory grounds.

[13] Dr. Bajwa was successful on the following issues:

- a) Equal sharing of debt arising from sale of dentistry practice (\$44,350); and
- b) No imputation of Guidelines income to her (Guidelines income set at L15000 or \$100,000 as opposed to \$120,000 imputation sought by Jamal Bajwa).

[14] By final submissions, Jamal Bajwa and Dr. Bajwa had agreed on other family debt to be divided and how to share post-separation expenses.

[15] Looking at the issues between Jamal Bajwa and Dr. Bajwa holistically and recognizing the predominance of the Surrey Property issue, I am satisfied that Jamal Bajwa was substantially successful in terms of the outcome of the action.

[16] Because the Parents and Jamal Bajwa were successful in the action, they are entitled to their costs unless I order otherwise: Rule 16-1(7).

Should Jamal Bajwa and the Parents be deprived of their costs?

[17] The party who asks the court to "order otherwise" and deprive the successful party of their costs bears the onus of persuading the court it should do so: *S.D.W. v. C.W.W.*, 2006 BCSC 162.

[18] The factors to be considered in determining whether the court should exercise its discretion to "order otherwise" include those identified in *Gold v. Gold*, [1993] B.C.J. No. 1792, 1993 CanLII 1248 (B.C.C.A.) at para. 20:

- a) Hardship;
- b) Earning capacity;
- c) The purpose of the particular award;
- d) The conduct of the parties in the litigation; and
- e) The importance of not upsetting the balance achieved by the award itself.

[19] As noted by Justice Bernard at para. 7(e) of *S.A.M v. J.A.M.*, 2017 BCSC 2348:

Financial hardship, without more, is not a sufficient basis for the court to exercise its discretion to depart from the usual rule that successful parties are entitled to their costs (*S.D.W. v. C.W.W.*, *supra.*; *K.D.P. v. A.R.K aka R.K.*, 2012 BCSC 1025; *Brown v. Kucher*, 2016 BCSC 194);

[20] Dr. Bajwa says that awarding costs against her would "devastate her financially" and cause her mental distress that would interfere with her earning capacity and her ability to care for her children. Further, Dr. Bajwa says an award of costs would upset the balance achieved by the division of family debt and the spousal and child support awards made.

[21] I am not satisfied that Dr. Bajwa has met the onus on her to persuade me to exercise my discretion to depart from the usual rule that costs follow the event. Dr. Bajwa relies on her F8 Financial Statement filed September 25, 2023, and submits that her financial circumstances have not improved since then. She claims to have \$134,000 in debt; however,

the source of that figure is not clear based on her F8 Financial Statement and the awards made in the Reasons. I am not satisfied Dr. Bajwa has provided sufficient credible and reliable evidence to corroborate her submissions on costs.

- [22] In any event, I am satisfied that Dr. Bajwa has sufficient earning capacity that an award of costs in favour of the Jamal Bajwa and the Parents would not be financially devastating, at least over time. As the court found at para. 62 in *T.A.O. v. D.J.M.*, 2022 BCSC 636, I expect any negative financial impact would be temporary given Dr. Bajwa's age and profession. The unsuccessful party in *Bird v. Kohl*, 2012 BCSC 1424 was in more dire financial circumstances than Dr. Bajwa, and the court in that case declined to exercise its discretion to "order otherwise".
- [23] Further, this is not a case where the "balance" achieved at trial would be upset by awarding costs in favour of the successful litigants. This factor does not apply at all to the claim for costs in favour of the Parents: they were successful in defeating the counterclaim and there is no "balance" to maintain.
- [24] As for the balance between Dr. Bajwa and Jamal Bajwa, the division of family debt was a straightforward equal allocation between the parties. Dr. Bajwa is the higher income earner and net payor of child support, which means that a costs award in favour of Jamal Bajwa should not affect the "balance" achieved by the spousal support and child support order. An award of costs will not deprive Dr. Bajwa of the financial support she requires post-separation as she is the payor not the recipient of support.
- [25] In the exercise of my discretion, it cannot be forgotten that one of the purposes of costs is to partially indemnify the successful litigant. If not for Dr. Bajwa's asserting a claim to the Surrey Property, there is reasonable likelihood that Jamal Bajwa and Dr. Bajwa could have resolved the remaining issues without a trial or at least would have had a much shorter trial. The Parents would not have been a party to such a proceeding. I am satisfied that it is appropriate to impose cost consequences on Dr. Bajwa for pursuing her ultimately unsuccessful claim to an interest in the Surrey Property through to trial. The substantially successful parties are entitled to be at least partially indemnified.
- [26] I am not satisfied that there is any justification for reducing the successful parties' entitlement to costs for the trial from 13 days to three. The most time-consuming issue at trial related to the Surrey Property. Jamal Bajwa and the Parents were successful on this key issue. There is no basis for reducing their entitlement to costs for the entirety of the trial.

Should the successful parties be awarded special costs?

Legal Framework for special costs

- [27] The court has the discretion to order that costs of a family law proceeding be assessed as special costs: Rule 16-1(1)(b)(i).

- [28] Special costs are designed to sanction reprehensible conduct that is deserving of reproof or rebuke: *Hu v. Dickson*, 2015 BCSC 218 at para. 46. As noted by Justice Warren at para. 47 of *Hu*, "[t]he purpose for this high level of costs is punitive and intended to express the court's disapproval of the party's conduct." The court must exercise restraint in awarding special costs, which means the party seeking special costs must demonstrate exceptional circumstances to justify an award of special costs: *Hu* at para. 48, citing *Westsea Construction Ltd. v. 0759553 B.C. Ltd.*, 2013 BCSC 1352 at para. 73.
- [29] Justice Dley said the following in *Kim v. Choi*, 2019 BCSC 1792:
- [25] Special costs are the exception. Special costs should not be awarded where the only issue is a party's credibility: *Schwabe v. Dr. Lisinski*, 2005 BCSC 1284 at para. 26; *Grewal v. Sandhu*, 2012 BCCA 26 at para. 107, leave to appeal ref'd [2012] S.C.C.A. No. 120. However, a party who lies, falsifies evidence and attempts to deceive the court can be subjected to special costs: *Hoffman v. Percheson*, 2011 BCSC 1175 at paras. 19-23.

Is Jamal Bajwa entitled to special costs?

[30] Jamal Bajwa says he is entitled to special costs based on the following:

- a) my finding that Dr. Bajwa and her parents concocted a conversation said to have occurred at the parties' wedding where the Parents boasted that Jamal Bajwa owned the Surrey Property;
- b) Dr. Bajwa "knowingly and repeatedly concocted a story that the claimant was "starving" his daughter";
- c) Dr. Bajwa's allegation that the Surrey Property had been fraudulently conveyed;
- d) Dr. Bajwa alleged that Shamim Bajwa committed perjury; and
- e) Dr. Bajwa minimized Jamal Bajwa's role in bringing up the children.

[31] Keeping in mind the principle of restraint in respect of awards of special costs, I am not satisfied that Dr. Bajwa's conduct related to the issues with Jamal Bajwa warrants rebuke. I had concerns about Dr. Bajwa's credibility when it came to the Surrey Property, but I am not satisfied that her lack of credibility warrants a punitive award of costs in this case.

[32] As for the remaining points, I find they do not individually or collectively justify an award of special costs:

- a) In terms of starving his daughter, I found at para. 123 of the Reasons that the daughter may well have told Dr. Bajwa that Jamal Bajwa deprived her of food;
- b) Not every unsuccessful claim of fraudulent conveyance warrants an award of special costs;

- c) Dr. Bajwa refused to believe that Shamim Bajwa would not have known about the claim against the Surrey Property before November 2022, which Dr. Bajwa regrettably misdescribed as "perjury" on Shamim Bajwa's part due to Dr. Bajwa's misunderstanding of the term; and
- d) It was Dr. Bajwa's parents who minimized Jamal Bajwa's role in raising the children, which led me to conclude they lacked objectivity and favoured their daughter's position in all matters.

[33] In summary, I decline to exercise my discretion to award special costs in favour of Jamal Bajwa as against Dr. Bajwa.

Are the Parents entitled to special costs?

- [34] The Parents say they are entitled to special costs on the basis of the same misleading evidence related to the Surrey Property. The Parents also point to improper allegations of fraud and dishonesty, the respondent's unreasonable position regarding the examination of Habib Bajwa, and pursuing the counterclaim against the Parents "despite overwhelming evidence to the contrary".
- [35] I am not satisfied that Dr. Bajwa's conduct in pursuing the counterclaim warrants rebuke. Certainly Dr. Bajwa was inclined to ignore documents that were not consistent with her hoped-for outcome, but her failure to succeed on her counterclaim against the Parents is not exceptional and does not justify an award of special costs.
- [36] I am not prepared to describe Dr. Bajwa's effort to compel Habib Bajwa to attend discovery and trial as high handed and unreasonable conduct worthy of rebuke. It is unusual for a party to avoid being examined for discovery and to be permitted to give evidence at trial (in direct and cross-examination) by way of affidavit. Although Habib Bajwa was successful on applications to that effect, I am not satisfied that Dr. Bajwa's refusal to accept those options is a factor in favour of an award of special costs.
- [37] As for the improper allegations of fraud and dishonesty, I have already commented on the failed fraudulent conveyance claim and the allegation of "perjury" advanced against Shamim Habib. Unfortunately, Dr. Bajwa had a misguided belief that Habib Bajwa signing Jamal Bajwa's signature on the purchase agreement for the Surrey property constituted "forgery", when there was no attempt to deceive nor any objection by Jamal Bajwa. The allegation of forgery was inapt but not worthy of rebuke.
- [38] Similarly, Dr. Bajwa was suspicious about the low earnings Jamal Bajwa had from All Points Immigration Ltd., particularly based on what she was led to believe or at least wanted to believe about the success of the business. In her testimony, Dr. Bajwa raised questions about the declining gross revenue and offered a theory that the decline might be related to the family litigation. In my view, this unfounded theory is entitled to a dose of forgiveness.

[39] In short, I am not prepared to exercise my discretion to award special costs to the Parents, as Dr. Bajwa's conduct in the litigation does not rise to the level of warranting sanction and rebuke.

Is Jamal Bajwa entitled to double costs?

[40] The court may award double costs to a successful party where an offer to settle (as defined in Rule 11-1(1)) has been made: Rule 11-1(5)(b).

[41] At para. 7 of *S.A.M v. J.A.M.*, 2017 BCSC 2348, Justice Bernard summarized the legal principles that apply to double costs as follows:

- (f) Where an offer to settle a family case has been made, the court may award double costs for all or some of the steps taken after the date of delivery or service of the offer (Rule 11-1(5) of the Rules);
- (g) As a general rule, an award of double costs should be made against a party who did not accept an offer to settle that should, in all the circumstances, have been accepted (*Hartshorne v. Hartshorne*, 2011 BCCA 29); and,
- (h) In determining whether a double costs order should be made, the court may consider any factor the court considers appropriate, including whether the offer was one that ought reasonably to have been accepted upon receipt or at any later date, the relationship between the offer and the judgment, and the relative financial circumstances of the parties (Rule 11-1(6) of the Rules).

[42] The purpose of Rule 11-1(5) is to "encourage the early settlement of disputes by rewarding the party who makes a reasonable settlement offer and penalizing the party who declines such an offer": *A.E. v. D.W.J.*, 2009 BCSC 505 at para. 61.

Did Jamal Bajwa make an offer to settle as defined in Rule 11-1(1)?

[43] As noted, Jamal Bajwa made an offer to settle in December 2022 (the "December Offer"). The December Offer was marked "without prejudice" and did not suggest Jamal Bajwa would rely upon it for costs purposes. The December Offer does not adequately conform to the definition of "offer to settle" in Rule 11-1(1), which means double costs under Rule 11-1(5) are not available: *M.S.G. v. S.K.R.*, 2015 BCSC 913 at para. 14.

[44] Similarly, the informal offer to settle made by Jamal Bajwa and the Parents in May 2023 did not alert Dr. Bajwa that the other parties would be relying upon it in respect of costs.

[45] On October 22, 2023, the day before the trial started, Jamal Bajwa made an offer to settle (the "October Offer"). The October Offer was sent to Dr. Bajwa with an email that included the following:

This offer to settle will remain open until it is withdrawn. I ask you to please seriously consider it as I will rely on this email and this offer to seek double costs if we are successful after trial.

[46] I accept that the October Offer adequately complies with the definition of "offer to settle" in Rule 11-1(1): it was in writing, it was served on all parties, and the October Offer makes clear that Jamal Bajwa intends to rely upon it in relation to costs. I accept that the October Offer satisfies Rule 11-1(1), as it "clearly and unambiguously conveys the import" of Rule 11-1(1): *Park v. Donnelly*, 2018 BCSC 219 at para. 56. In some respects, the warning that Jamal Bajwa intended to rely upon the offer to seek double costs is clearer than the wording found in Rule 11-1(1)(c)(iii).

Is Jamal Bajwa entitled to double costs from October 22, 2023, onward?

[47] Rule 11-1(6) provides that the court may consider the following when deciding whether to make an order for double costs:

- (a) whether the offer to settle was one that ought reasonably to have been accepted, either on the date that the offer to settle was delivered or served or on any later date;
- (b) the relationship between the terms of settlement offered and the final judgment of the court;
- (c) the relative financial circumstances of the parties;
- (d) any other factor the court considers appropriate.

[48] The Court of Appeal in *Hartshorne v. Hartshorne*, 2011 BCCA 29 provided guidance for the deciding whether the offer to settle was one that ought reasonably to have been accepted (Rule 11-1(6)(a)):

[27] The first factor - whether the offer to settle was one that ought reasonably to have been accepted - is not determined by reference to the award that was ultimately made. Rather, in considering that factor, the court must determine whether, at the time that the offer was open for acceptance, it would have been reasonable for it to have been accepted: *Bailey v. Jang*, 2008 BCSC 1372, 90 B.C.L.R. (4th) 125 at para. 24; *A.E. v. D.W.J.* at para. 55. As was said in *A.E. v. D.W.J.*, "The reasonableness of the plaintiff's decision not to accept the offer to settle must be assessed without reference to the court's decision" (para. 55). Instead, the reasonableness is to be assessed by considering such factors as the timing of the offer, whether it had some relationship to the claim (as opposed to simply being a "nuisance offer"), whether it could be easily evaluated, and whether some rationale for the offer was provided. We do not intend this to be a comprehensive list, nor do we suggest that each of these factors will necessarily be relevant in a given case.

[49] In assessing whether the October Offer ought reasonably to have been accepted, the outcome at trial is not a factor.

- [50] As is the case in many family law cases involving many issues, the October Offer was a global offer that included a number of terms, which had to be accepted or rejected in its entirety. The October Offer amended and improved upon the December Offer in terms of retroactive child and spousal support and Dr. Bajwa's Guidelines income. Otherwise, the October Offer repeated the terms of the December Offer, including the dismissal of the claim for an interest in the Surrey Property.
- [51] In my view, the delivery of the October Offer on the very eve of trial is most significant in my finding that the October Offer is not one that ought reasonably to have been accepted. The October Offer was sent to Dr. Bajwa at 3:55 pm on Sunday, October 22, 2023, the day before the trial started. Because it was delivered on a Sunday, delivery of the October Offer is deemed effective on October 23, 2023, the first day of trial: Rule 6-2(3). Realistically, Dr. Bajwa did not have any opportunity to consider the October Offer before the trial started. She did not have any opportunity to seek legal advice with respect to the October Offer. The late delivery of the formal offer was a significant factor in the court's declining to award double costs in *J.L.M. v. G.G.M.*, 2024 BCSC 1643. In the circumstances, while in the final moments of trial preparation, I am not satisfied that Dr. Bajwa ought reasonably to have accepted the offer.
- [52] Another factor that weighs against the October Offer being one that ought reasonably to have been accepted was the rationale offered by Jamal Bajwa for the lack of merit to Dr. Bajwa's claim for the Surrey Property. In respect of that issue, the October Offer focused on whether the December 2016 transfer from Jamal Bajwa to the Parents was done in bad faith, which responds to Dr. Bajwa's plea in her counterclaim that the transfer was a fraudulent conveyance. However, Dr. Bajwa's claim to the Surrey Property ultimately failed because Jamal Bajwa was (for a time) the legal owner of the Surrey Property, but he owned the Surrey Property in trust for Habib Bajwa. The October Offer makes no reference to Habib Bajwa's initial purchase of the Surrey Property, the discussion he had with Jamal Bajwa at the time, and Habib Bajwa's subsequent payments toward and control of the Surrey Property (which was evidence of Habib Bajwa's beneficial ownership). Thus, while the October Offer provided a rationale for suggesting Dr. Bajwa's claim in respect of the Surrey Property would be dismissed, the rationale offered was not the primary ground on which her claim lacked merit.
- [53] In terms of comparing the October Offer to the outcome at trial (Rule 11-1(6)(b)), Dr. Bajwa had a better outcome at trial in terms of dividing family debt but less favourable outcome for retroactive support. She succeeded in having her dental clinic loan included in family debt, and family debt and post-separation expenses resulted in an equalization payment to her of \$72,196.13. This equalization payment is somewhat offset by the retroactive child and spousal support awards of \$21,107 and \$25,752 respectively. The October Offer included a waiver of retroactive support but also required Dr. Bajwa to assume her dental clinic loan and student loan.

- [54] In terms of the key issue at trial, the October Offer predicted the trial result: Dr. Bajwa's claim to an interest in the Surrey Property was dismissed.
- [55] As for the relative financial circumstances of the parties (Rule 11-1(6)(c)), both parties have negative net worth, but Dr. Bajwa has greater earning capacity. I accept that an award of double costs would put Dr. Bajwa into an even greater deficit position while reducing Jamal Bajwa's deficit.
- [56] Taking all of these factors into account, I am not inclined to order double costs, principally because the October Offer was delivered so late in the day.

Are the parents entitled to increased costs?

- [57] The Parents have failed to establish that the counterclaim involved more than ordinary difficulty.
- [58] The Parents assert that they required additional preparation for cross-examination as a result of Dr. Bajwa's "attempts to deceive". I am not satisfied based on my observations of the cross-examination of Dr. Bajwa by the Parents that extra efforts were required beyond what might be expected in a claim of this sort. Dr. Bajwa was properly and effectively cross-examined, but I am not convinced that her evidence about a conversation at her wedding and her description of the Surrey Property as her matrimonial property necessitated additional preparation time.

Should I exercise my discretion to assess costs?

- [59] The court has jurisdiction to fix the amount of costs: Rule 16-1(14). However, the court's discretion to fix costs should be exercised sparingly: *L.L.L. v. S.T.*, 2024 BCSC 1028 at para. 60; *Gichuru v. Smith*, 2014 BCCA 414 at para. 100 - 108.
- [60] Although the Parents and Jamal Bajwa insist that fixing costs in this matter is straightforward, I note that with respect to assessing costs, the Parents tendered two affidavits totalling more than 200 pages and Jamal Bajwa tendered one affidavit that is 100 pages in length.
- [61] For the reasons articulated by Justice Hardwick at para. 65 to 67 of *T.A.O. v. D.J.M.*, 2022 BCSC 636, I decline to exercise my discretion to assess costs:
- a) the Registrar is best placed to assess costs;
 - b) aside from being the trial judge, I have no particular familiarity with this case such that it would be a better use of resources for me to assess costs in place of the Registrar;
 - c) the discretion to fix costs should be exercised sparingly, and this case does not warrant the exercise of such discretion.

[62] In particular, I have no basis upon which to assess whether the disbursements claimed by the Parents (including \$3943.89 for court reporting and \$6307.98 for professional fees) and by Jamal Bajwa (including \$5679.50 for prints and copies, \$4195.87 for court reporter transcripts, and \$4250.00 for Arlene H. Henry Law Corporation) are objectively reasonable.

No order to preserve property or disclose documents

[63] Jamal Bajwa sought an order that Dr. Bajwa preserve the jewelry identified in her F8 financial statement and disclose documents she submitted to the government for the purpose of sponsoring her parents.

[64] I decline to order such relief, as it does not arise from the leave granted to make submissions on costs.

[65] Further, Jamal Bajwa did not provide authority for the preservation order sought. It is not obvious that s. 91 of the Family Law Act authorizes the preservation order sought, as s. 91 allows for an order restraining a party from disposing of any property at issue. The jewelry was not property at issue in the action, as Jamal Bajwa did not seek an order that Dr. Bajwa's jewelry was family property.

[66] If Jamal Bajwa wishes to pursue such relief, then a proper notice of application is required.

Summary

[67] Jamal Bajwa and the Parents are entitled to costs of the action to be assessed on the basis of ordinary difficulty.

"Lamb J."

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