

CANADA / JUDGMENT

Biswas v. Khan

2025 ONCA 745

COURT

Court of Appeal for Ontario

DECIDED

28 October 2025

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Biswas v. Khan Collection Decisions of the Court of Appeal Date 2025-10-28 Neutral citation 2025 ONCA 745 Docket numbers COA-24-CV-1103 Judges Huscroft, Grant; Coroza, Steve A.; Monahan, Patrick J. Subject Civil Decision Content COURT OF APPEAL FOR ONTARIO CITATION: Biswas v. Khan, 2025 ONCA 745 DATE: 20251028 DOCKET: COA-24-CV-1103 Huscroft, Coroza and Monahan JJ.A. BETWEEN Sontush Biswas and Kalayani Biswas Plaintiffs (Respondents) and Asif Khan*, Swapna Chakraborty, RE/MAX Real Estate Centre Inc. Defendants (Appellant*) Khalid Parvaiz, for the appellant Jason Huang Kung and Fawad Ghulami, for the respondents Heard: October 24, 2025 On appeal from the order of Justice Joseph R. Henderson of the Superior Court of Justice, dated October 3, 2024. REASONS FOR DECISION

- [1] The appellant's counsel requested an adjournment of the appeal on the basis that he had been retained only one week prior to the hearing. We denied the request. The appellant chose to retain counsel after the appeal was perfected. The respondents are entitled to have the matter heard as scheduled.
- [2] Following the hearing, we quashed the appeal with reasons to follow. These are our reasons.
- [3] After Donohue J. granted the respondents summary judgment, the appellant brought a motion to another Superior Court judge, Henderson J., seeking to have the summary judgement order set aside. Henderson J. made an order dismissing the motion because the court did not have jurisdiction to make the order requested.
- [4] The appellant now seeks to appeal the order of Henderson J. to this court. The parties were sent a letter by the court's legal counsel advising them that the order may be interlocutory rather than final, and that if so, the appeal lies to the Divisional Court.
- [5] The appellant argues that this court has jurisdiction because he is appealing the order of Donohue J. as well as the order of Henderson J. We do not agree. The appellant is well out of time to appeal from the order of Donohue J. and did not bring a motion seeking to extend time to do so, despite being advised by the court's legal counsel that this was an option. It is clear from the record that only the order of Henderson J. is before this court.

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- [6] That being so, this court has no jurisdiction. The order of Henderson J. is interlocutory rather than final and an appeal from that order lies to the Divisional Court with leave: *Antique Treasures of the World Inc. v. Bauer*, 2003 CanLII 35349 (Ont. C.A.).
- [7] Accordingly, the appeal is quashed.
- [8] The respondents are entitled to costs in the agreed amount of \$4,000, all inclusive. “Grant Huscroft J.A.” “S. Coroza J.A.” “P.J. Monahan J.A.”
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