

CANADA / JUDGMENT

Daud v. Temor

2026 ONCA 83

COURT

Court of Appeal for Ontario

DECIDED

9 February 2026

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Daud v. Temor

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COA-25-CV-0818

Judges

van Rensburg, Katherine; Paciocco, David M.; Thorburn, Julie

Subject

Family

Decision Content

COURT OF APPEAL FOR ONTARIO

CITATION: Daud v. Temor, 2026 ONCA 83

DATE: 20260209

DOCKET: COA-25-CV-0818

van Rensburg, Paciocco and Thorburn JJ.A.

BETWEEN

Abdullah Muhammad Daud

Applicant (Appellant)

and

Wahida Temor

Respondent (Respondent)

Sajan Oommen and Arun Kumar, for the appellant

Charles Baker, for the respondent

Heard: January 16, 2026

On appeal from the orders of Justice George MacPherson of the Superior Court of Justice, dated May 27, 2025[1] and May 28, 2025, with reasons at 2025 ONSC 3206.

van Rensburg J.A.:

- [1] The appellant appeals two orders of MacPherson J. (the “trial judge”). The first, dated May 27, 2025, was made at the commencement of trial, granting the respondent’s motion to strike the appellant’s pleadings. The second, dated May 28, 2025, was made after the uncontested trial the following day. The appellant did not file materials in response to the motion, although he attended without counsel to oppose it. He was not present at the trial.
- [2] The financial issues at trial included child support and equalization of net family property. The appellant was ordered to pay monthly table child support, in accordance with the Federal Child Support Guidelines, SOR/97-175, from February 2016, based on an imputed income of \$80,000 per year, and an equalization payment of \$506,978.73. The trial judge’s conclusions on both issues were, in part, informed by his findings about the appellant’s interest in Ishan General Trading LLC (“Ishan”), a Dubai-based company owned and operated by the appellant, his brother, his father and another partner.
- [3] The appellant makes three arguments on appeal: first, that the trial judge erred in law and denied him procedural fairness in striking his pleadings; second, that the trial judge erred in the net family property equalization by overvaluing his interest in Ishan; and third, that the trial judge erred in imputing income to him for the purpose of child support.
- [4] For the reasons that follow, I would dismiss the appeal.
- [5] In challenging the order striking his pleadings, the appellant claims that he was not served with the respondent’s motion (despite his attendance in court to oppose the motion), that the trial judge erred in finding that he had not complied with costs orders, that the trial judge did not take into consideration what he said in court that day with respect to Ishan, and that, instead of striking his pleadings and permitting the matter to proceed as an uncontested trial, the trial judge ought to have given him more time, even another day, to comply with his disclosure obligations.

- [6] I disagree. First, there was no denial of procedural fairness. The transcript of the May 27 hearing in respect of the motion shows that the trial judge carefully addressed the issue of service and was satisfied that the appellant had been served with the respondent's amended notice of motion and motion materials.
- [7] The appellant had ample notice that he was at risk of having his pleadings struck. He and his lawyer were in attendance at the settlement conference on October 31, 2024, before Finlayson J., who made an order outlining exactly what the appellant was required to do with respect to the outstanding financial disclosure and granted leave to the respondent to bring a motion to strike the appellant's pleading in the event of non-compliance. The appellant and his lawyer were also present for a trial scheduling conference on February 6, 2025. In his endorsement that day, the judge noted that the appellant had not obtained a business valuation as of the date of separation, cautioned the parties about the evidentiary burden and adverse inferences in respect of valuing assets and provided directions respecting the evidence required for trial.
- [8] Second, I see no error in the trial judge's decision to strike the appellant's pleadings.
- [9] I am satisfied that at least one of the costs orders had not been paid (Finlayson J.'s order for costs at the settlement conference), and that, in any event, the main reason for the order striking the appellant's pleadings was not his non-compliance with costs orders, but his deliberate and persistent non-compliance with his financial disclosure obligations.
- [10] At the time the matter was called for trial and the respondent brought her motion to strike, the family law proceedings – commenced by the appellant in January 2016 – had been outstanding for more than nine years. Throughout the years, the appellant had failed to comply with his statutory obligations and numerous court orders requiring disclosure of his business interests, assets and income. While he provided some CRA notices of assessment, he had not produced full tax returns for any year, which was problematic since he was self-employed at the date of separation and, according to the respondent, in the years that followed. He did not provide ledgers, financial statements or corporate tax documents for Ishan and its related corporations.[2] He ignored court orders to provide proof of his income and a valuation of his assets. He did not comply with trial scheduling directions requiring an affidavit setting out his examination in chief, an updated sworn financial statement and the exhibits he intended to rely on at trial. The appellant's counsel fairly acknowledged on appeal that further delay would have prejudiced the respondent.
- [11] The appellant did not file an affidavit in response to the motion to strike; instead, he asserted during the hearing of the motion that Ishan closed in 2016, and he attempted to tender, what was presumably, a December 31, 2015, financial statement for the company. He did not provide a substantive response to the trial judge's questions about the missing financial disclosure, nor did he explain his defaults, other than to suggest that his lawyer was to blame. He provided no reason to believe that he would provide the required disclosure within a short period or at all. In these circumstances, I see no error in the trial

judge's conclusion that the only appropriate remedy was to strike the appellant's pleadings and permit the respondent to proceed to an uncontested trial.

- [12] While striking pleadings in family law cases is a remedy of last resort, no other remedy would have sufficed in this case: *Kovachis v. Kovachis*, 2013 ONCA 663, 367 D.L.R. (4th) 189, at paras. 24-25.
- [13] The appellant's second ground of appeal is in respect of the trial judge's valuation of his interest in Ishan. He asserts that the trial judge erred in disregarding the 2015 financial statement that he had tried to tender during the motion and that was in the record at the trial.
- [14] I disagree.
- [15] Despite court orders and specific warnings, the appellant, although eventually admitting his interest in Ishan, did not comply with his obligations to provide documents and a valuation report for Ishan and its related companies. The respondent provided evidence by affidavit and orally about her knowledge of Ishan, including the nature of the business and locations of its operations, and her belief that the appellant received substantial income from Ishan during their marriage. The trial judge stated that he accepted the respondent's evidence and proposed valuation of Ishan in the face of the appellant's failure to provide a valuation and other financial disclosure. The estimate was based on the value of the company's assets listed in Ishan's financial statements dated December 31, 2013. If anything, this 2013 financial statement may have underestimated the value of the company since, as the trial judge noted, it did not account for any goodwill in the company.
- [16] I do not accept that the trial judge erred in failing to conclude, based on the appellant's selective disclosure of one document – the December 31, 2015, financial statement – that Ishan had no value on July 1, 2015, the valuation date. Although the trial judge did not refer to this document in his reasons, the appellant put forward this document when he attended at the motion to strike, and it was in the respondent's book of documents that was filed at trial.[3] Also included in the respondent's document book was correspondence between the parties' counsel about the appellant's missing financial disclosure that referenced the appellant's production of the 2015 financial statement and his claim Ishan became bankrupt in 2016. This prompted the respondent's counsel to request, in addition to other missing disclosure, documents showing the depletion of funds from Ishan and its alleged bankruptcy. The appellant produced no other documents or information in relation to Ishan, including the 2013 financial statement.
- [17] At its highest, the 2015 financial statement suggests that, by the end of 2015, Ishan was operating at a loss and had significantly fewer assets than were reported for 2013 and 2014. [4] In the absence of the disclosure and valuation of Ishan that the appellant failed to provide, the trial judge was entitled to rely on the evidence put forward by the respondent. He did not do so uncritically but asked questions of the respondent about the status of Ishan before and after the date of separation. The respondent relied on the 2013 financial

statement, and her affidavit and oral evidence, as well as bank statements for Ishan for different periods in 2014 and 2015 – showing significant cash balances. She testified she had received the 2013 financial statement from the respondent in support of an application to sponsor his family from Dubai to Canada. She testified that she believed Ishan was active and a source of significant income for the appellant based on these documents and her knowledge of the company's operations in three countries and the appellant's lifestyle in Dubai.

- [18] As a result of the appellant's failure to comply with his disclosure obligations, and the order properly striking his pleadings, the trial judge necessarily relied on the evidence marshalled by the respondent. Having failed in his obligation to provide a proper valuation of Ishan or to provide documents in relation to his income and assets, it is too late for the appellant to rely on a single document to suggest that the trial judge ought to have concluded that Ishan, which was flourishing according to the 2013 financial statement and the other evidence of the respondent, had no value on the valuation date, July 1, 2015.
- [19] Finally, the appellant asserts that the trial judge erred in imputing income to him for the purpose of child support. He says that there was "no evidence" that he earned any income beyond what was shown in his income tax notices of assessment.
- [20] I disagree. Under s. 16 of the Child Support Guidelines, the initial step for calculating income is based on line 150 of the payor's tax return. Sections 17, 18 and 19 permit the court to impute income if line 150 does not accurately reflect the true income available. Section 19(1) outlines specific reasons for imputing income, including failure to disclose information and income diversion.
- [21] In this case, the trial judge had notices of assessment for some, but not all, of the years between 2015 and 2023 setting out the appellant's employment income, as well as the respondent's testimony about the appellant's standard of living and income sources. The trial judge inferred that the appellant earned at least \$80,000 per year based on the amount he earned as employment income in 2023. While the trial judge misstated the amount as \$79,000 (it was in fact \$75,909), I see nothing unreasonable in the income that the trial judge imputed. In arriving at the \$80,000 figure, the trial judge specifically stated that he drew an adverse inference from the appellant's non-disclosure. In the absence of the appellant's financial disclosure mandated by statute and specific court orders, the trial judge was entitled to use what he had to determine the appellant's income for child support purposes, including undisclosed self-employment income. Contrary to the appellant's submission, the trial judge was not obliged to accept the notices of assessment as the sole evidence of the appellant's income at the relevant times.
- [22] For these reasons, I would dismiss the appeal, with costs of the appeal payable by the appellant to the respondent in the agreed and all-inclusive amount of \$17,500.

Released: February 9, 2026 "K.M.v.R."

“K. van Rensburg J.A.”

“I agree. David M. Paciocco J.A.”

“I agree. Thorburn J.A.”

- [1] The reasons for this order, provided by way of endorsement, are unreported.
- [2] The two related companies are Ishan Investment Group Incorporated, incorporated on February 10, 2015, and Ishan Deals Incorporated, incorporated on April 15, 2013. Both are Ontario corporations.
- [3] Although the appeal record does not include the respondent’s book of documents as filed at trial, counsel for the respondent acknowledged that the 2015 financial statement for Ishan was included in the respondent’s book of documents. This book was filed and marked as a cumulative exhibit at trial.
- [4] The 2013 financial statement shows comparative financial results for the years ending December 31, 2012, and December 31, 2013, while the 2015 financial statement shows comparative results for the years ending December 31, 2014, and December 31, 2015.

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