

CANADA / JUDGMENT

I.J. v. J.A.M.

2015 BCCA 174

COURT

British Columbia Court of Appeal

DECIDED

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2015 BCCA 174 I.J. v. J.A.M. COURT OF APPEAL FOR BRITISH COLUMBIA Citation: I.J. v. J.A.M., 2015 BCCA 174 Date: 20150416 Docket: CA042452 Between: I.J. Appellant (Plaintiff) And J.A.M. and S.C.M.I. Respondents (Defendants) SEALED FILE There is a ban on the publication of the names of the parties in this action and a ban on the publication of any information that would identify the parties to the public. Before: The Honourable Madam Justice Newbury The Honourable Mr. Justice Frankel The Honourable Mr. Justice Groberman On review of: Orders of the Court of Appeal for British Columbia, dated January 23, 2015 (I.J. v. J.A.M., Vancouver Docket CA042452). Oral Reasons for Judgment The Appellant acting on her own behalf: I.J. Counsel for the Respondents: D.W. Pangman Place and Date of Hearing: Vancouver, British Columbia April 15, 2015 Place and Date of Judgment: Vancouver, British Columbia April 16, 2015 Summary: Application to review orders made by a judge of this Court in chambers dismissed.

- [1] FRANKEL J.A.: The appellant, I.J., applies to review two orders made by Mr. Justice Harris, in chambers. The first order, which was made on the application of I.J.: (a) initialized the style of cause; (b) made a publication ban ordered by a judge of the Supreme Court of British Columbia with respect to the trial proceedings applicable to this appeal; and (c) sealed this Court's file. That order also provides that either party can apply to this Court or the Supreme Court of British Columbia to vary or vacate the initialization, the ban, and the sealing order. It should be noted that an order initializing the style of cause of the trial proceedings was made in the Supreme Court.
- [2] The second order, made on the application of the respondents, was for security for costs of the appeal. I.J. was ordered to post security of \$15,000.00 in a form acceptable to the registrar within 30 days of the date of the order. In the meantime, the appeal was stayed.
- [3] With respect to the first order, I.J. contends the chambers judge erred by not imposing a permanent publication ban, i.e., one that can never be varied or vacated. With respect to the second order, she contends the judge erred in finding that she had equity in property in Ontario that she could access for the purpose of posting security for costs.
- [4] The approach to be taken on an application of this nature was succinctly stated by Mr. Justice Goepel in *Semenoff v. Bridgeman*, 2015 BCCA 139:

- [2] A review application is not a rehearing of the application: *DeFehr v. DeFehr*, 2002 BCCA 139 at para. 6. To succeed the appellant must establish that the chambers judge erred in law or principle or misconceived the material facts: *Haldorson v. Coquitlam (City)*, 2000 BCCA 672 at para. 7. If the chambers judge did not commit any of the aforementioned errors, then the Division of the Court in review will not vary the order of the chambers judge.
- [5] Assuming, without deciding, that a chambers judge has jurisdiction to impose a permanent publication ban, I.J. has failed to establish that the judge in this case erred in either law or principle in declining to do so. In this regard, I note that I.J. is entitled to be heard should an application be made to vary or vacate the ban.
- [6] As for the security for costs, the chambers judge based his decision with respect to the Ontario property on the evidence before him. As the judge discussed in his reasons, I.J., whom the evidence showed to be the registered owner of that property, advised him that her son was the beneficial owner. However, she did not provide any evidence in that regard. Accordingly, it cannot be said the judge misconceived the facts with respect to that property.
- [7] I should note that on the present application, I.J. stated that the property has now been transferred into her son's name but, once again, did not provide any evidence with respect to beneficial ownership.
- [8] No error having been shown, I would dismiss this application.
- [9] NEWBURY J.A.: I agree.
- [10] GROBERMAN J.A.: I agree.
- [11] NEWBURY J.A.: The application is dismissed. "The Honourable Mr. Justice Frankel"

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