

CANADA / JUDGMENT

Ishwarlall v. Ishwarlall

2021 BCSC 2333

COURT

Supreme Court of British Columbia

DECIDED

29 October 2021

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2021 BCSC 2333 Ishwarlall v. Ishwarlall IN THE SUPREME COURT OF BRITISH COLUMBIA

Citation: Ishwarlall v. Ishwarlall, 2021 BCSC 2333 Date: 20211029 Docket: E203780 Registry: Victoria Between: Sujay Ishwarlall Claimant And Shresta Ishwarlall Respondent Before: The Honourable Madam Justice Jackson Oral Reasons for Judgment (In Chambers) Counsel for the Claimant: M.G. Norton Counsel for the Respondent: J.C. Emmond Place and Date of Hearing: (via teleconference) Victoria, B.C. October 29, 2021 Place and Date of Judgment: Victoria, B.C. October 29, 2021

- [1] THE COURT: My reasons for judgment in the application are as follows. I am concerned, based on the evidence that is before me, that the claimant has not provided full financial disclosure and, of course, it is early in the proceedings moving forward and there is new counsel on behalf of the claimant and so that situation may change, but as pointed out by counsel for the respondent, there was an order by Master Bouck that the accounting and details of family money that had been withdrawn be provided and that has not yet been provided, only back to April of this year.
- [2] So although the purpose of an order under s. 91 of the Family Law Act [FLA] is to make sure that a claim under Part 5 or Part 6 of the FLA is not defeated because of the lack of full financial disclosure including a very significant concern about what exactly the claimant's income is, the nature and extent of her claim cannot yet be determined and, therefore, I am exercising my discretion not to grant the orders as sought, but I will grant the order that, number one, the three accounts, 5215405 and 6546500, and then the TD Visa Infinite credit card which ends at 8830, that those accounts be unfrozen, so varying the order of Master Bouck to unfreeze those accounts, but I am dismissing the relief sought at para. 2 of the notice of application, but I am ordering that Account 5405, which is the TD business account ending in 5405, is used only for the following purposes: first of all, to pay the TD bank account the TD credit card which ends in 3651, I believe that is a TD Visa Infinite credit card. So the 5405 is unfrozen. It can be used to pay for 3651.

- [3] With respect to the 5405 and 6500, those two bank accounts, can be used for the following expenses by the claimant: life insurance, telephone, strata fees, income tax remittances, professional fees and licencing costs, the claimant's rent, utilities on both the strata property in which the respondent resides with the parties' child and on the claimant's rental accommodation -- when I say phone, that is both phones, and any expenses to operate the claimant's vehicle.
- [4] With respect to those three accounts which I have ordered unfrozen, the claimant is to provide statements for those accounts to the respondent within seven days of them being available to the claimant. I will grant leave to either of the parties, in accordance with the Rules, that is to say, the timelines applicable under the Rules, unless they consent to abridge them, to apply to vary my variation order and, of course, the parties are free to consent to further expenses to be paid from those three accounts.
- [5] Costs will be in the cause.
- [6] Anything following up with respect to my reasons, counsel?
- [7] CNSL J. EMMOND: No, My Lady.
- [8] CNSL M. NORTON: No, My Lady.
- [9] THE COURT: Thank you.
- [10] CNSL M. NORTON: If, My Lady, just simply on that, I will be drafting an order fairly quickly here as time is of the essence to unfreeze these accounts --
- [11] THE COURT: Yes.
- [12] CNSL M. NORTON: -- and I am hoping -- and my understanding is you might be sitting in Victoria next week.
- [13] THE COURT: Yes, I am, and/or if you are able to submit electronically, it can be sent to me and then if --
- [14] CNSL M. NORTON: Oh.
- [15] THE COURT: -- you know, things change, then I can sign it electronically as soon as --
- [16] CNSL M. NORTON: Yes.
- [17] THE COURT: -- it is sent to me. Yes.
- [18] CNSL M. NORTON: Okay, thank you, My Lady.
- [19] THE COURT: -- I will make a note that it should be directed to me as an urgent matter just because of the timing of some of the expenses that are coming up.
- [20] CNSL M. NORTON: Yes, thank you.
- [21] THE COURT: Thank you. "Jackson J."

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