

CANADA / JUDGMENT

Q.X. v. J.R.L.

2020 BCSC 1875

COURT

Supreme Court of British Columbia

DECIDED

1 December 2020

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2020 BCSC 1875 Q.X. v. J.R.L. IN THE SUPREME COURT OF BRITISH COLUMBIA Citation: Q.X. v. J.R.L., 2020 BCSC 1875 Date: 20201201 Docket: E123319 Registry: Vancouver Between: Q.X. Claimant And J.R.L. Respondent Before: The Honourable Madam Justice Ker Reasons for Judgment on CV-AWS Application The Claimant, Appearing in Person: Q.X. The Respondent, Appearing in Person: J.R.L. Written Submissions Received: November 25, 2020 Place and Date of Judgment: Vancouver, B.C. December 1, 2020

- [1] The respondent in this family law proceeding has filed an application pursuant to COVID-19 Notice #14 - Applications by Written Submission. In his notice of application he seeks an order "varying and review(ing) child support / spousal support." In his filed written submissions he seeks:
- i. to vary a child support order made after trial, ii. to review and vary the spousal support order made after trial, iii. to revisit financial disclosure issues in respect of Ms. X after trial, and iv. to now impute income to Ms. X notwithstanding that she has no obligation to pay child support in light of the decision of the trial judge in this matter.
- [2] The learned trial judge's comprehensive reasons for judgment, rendered after an 11-day trial, are found at neutral citation 2015 BCSC 763.
- [3] The applicant's written submissions and written submissions in reply, which collectively exceed the page limitation set out in the directions governing the applications by written submissions process, describe the relief J.R.L. seeks in the following manner: Written Submissions by Respondent:
1. This Written Submission Application is not going to solve all the issues in this application, the support issue is complex and has been long time outstanding for 5 years, considering the lengthy history of litigation, both parties are self represented, it might take a very long time to be solved finally.
 2. The purpose of written submission is to make some progress to move forward by making interim support order and procedure order before the main hearing. I am seeking following order by written Submission:

- a. Interim Variation of Child Support starting December 01, 2020
 - b. Full Financial Disclosure of Ms. X. from 2015 to 2020
 - c. Order that Ms. X. be restrained from disposing of, transferring or in any similar [m]anner dealing with any asset in which Ms. X has, or may have an interest without consent in writing of Mr. L. or without further order of this court.
 - d. Main hearing of Retroactive variation of Child and Review Spousal Support is adjourned to a future date. Written Submissions in Reply by Respondent:
24. Summary of the orders I am seeking:
- a. Starting 01DEC2020, no party pays Child Support to the other, until further court order or agreement.
 - b. In 15 calendar days, Ms X. must file a sworn Financial Statement with US and Canada Tax Income return (Including her companies in US or Canada) and all Tax attachments for the tax year of 2015 to 2019.
 - c. In 20 calendar days, Ms. X. must produce the following documents:
 - i. Bank Statement of any account Ms X. has an interest in, from 2015 to 2020 ii. Credit Card Statement of Ms. X., from 2015 to 2020 iii. Statement of investment account Ms. X. has an interest in, from 2015 to 2020 iv. Rental Agreement of all properties of Ms. X. has an interest in, from 2015 to 2020
 - v. Mortgage Application of Ms. X.'s properties, currently owns or previously owned vi. Buy and sale contract of properties Ms. X., currently owns or previously owned.
 - d. Ms X. be restrained from disposing of, transferring or in any similar manner dealing with any asset in which Ms. X. has, or may have an interest without consent in writing of Mr. L. or without further order of this court.
 - e. Retroactive variation of Child and Review Spousal Support is adjourned.
 - f. For privacy reasons, reason of judgement will not be published online
- [4] As the above recitation of relief sought demonstrates, the applicant seeks a number of orders that appear to attempt to revive numerous issues that were dealt with at the end of the lengthy family trial that concluded more than five years ago.
- [5] J.R.L. filed an appeal of the trial decision three years out of time and his application for an extension of time to file his appeal was dismissed in reasons indexed at neutral citation 2018 BCCA 295.
- [6] On September 27, 2018, J.R.L. applied to vary the orders relating to his parenting time and parenting responsibilities and for an order that a fine be imposed on Q.X. for wrongfully denying him parenting time. For her part Q.X. sought orders that included having J.R.L.'s

parenting time decreased and that he be restrained from involving their then 7-year-old son in business promotions and political campaigns. In succinct and comprehensive reasons the Chambers Judge varied J.R.L.'s parenting time by increasing it modestly (para. 35 of the Oral Reasons for Judgment), dismissed his application to increase parenting responsibilities given his demonstrated domineering, controlling and aggressive personality (para. 17 of the Oral Reasons for Judgment), dismissed his application for a fine to be imposed on Q.X. for denying him parenting time (paras. 20-25 of the Oral Reasons for Judgment) and ordered that J.R.L. not involve his young son in his business promotions and political campaign (paras. 38-41 of the Oral Reasons for Judgment).

- [7] Significantly, the Chambers Judge outlined the history of this file in the following manner:
- [3] The parties were married in June 2010 and separated in November 2012. There is one child of the relationship, a son, who is now 7 years old.
- [4] This proceeding was the subject of an eleven-day trial before Madam Justice Loo on July 14 to 18, September 15 to 19, and October 1, 2014. Madam Justice Loo issued her Reasons for Judgment on May 8, 2015. They comprise 53 pages.
- [5] Having had the benefit of observing the parties on the witness stand and hearing the evidence presented at trial, Loo J. determined that the respondent had breached or deliberately ignored several court orders regarding financial disclosure and found the respondent generally to be a witness who could not be believed. She accepted the evidence of the claimant on most, if not all, matters of controversy.
- [6] Justice Loo found that the respondent had engaged in an attempt to deceive the court about his finances and income. She also found that there was family violence during the parties' relationship perpetrated by the respondent and that their child had been directly or indirectly exposed to it.
- [8] Notably, J.R.L.'s current application by way of written submissions seeks a number of orders but also seeks to use the application by written submission process to "move forward" by obtaining interim orders before what he characterizes as the main hearing. J.R.L. appears to be using the application by written submission process to revive and re-argue facets of a trial that ended five years ago in as much as he appears to be engaging in a process that seeks to revisit much of the substance of what Loo J. decided at the trial.
- [9] The application to vary the child and spousal support orders and the disclosure orders that J.R.L. seeks are inextricably intertwined. Final orders were made after trial and so in these circumstances it is not appropriate to make interim orders before a main hearing. Should J.R.L. seek to vary the support orders he must establish a material change in circumstances to justify the variation. Moreover, on the materials filed by J.R.L. on this application, the matter is not limited to one dispute as directed by the Court's COVID-19 Notice #14.

[10] Furthermore, in light of the significant credibility issues that arose at the trial before Loo J. and arise again in the materials filed on this application it most certainly is not appropriate for determination on the basis of written submissions.

[11] J.R.L.'s application to have these matters determined by way of the written submission process is dismissed. "Ker J."

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