

CANADA / JUDGMENT

Rajwani v. Rajwani

2025 BCSC 56

COURT

Supreme Court of British Columbia

DECIDED

14 January 2025

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2025 BCSC 56 Rajwani v. Rajwani

IN THE SUPREME COURT OF BRITISH COLUMBIA

Citation:

Rajwani v. Rajwani,

2025 BCSC 56

Date: 20250114

Docket: E092545

Registry: Vancouver

Between:

Shaine Rajwani

Claimant

And

Rahim Rajwani

Respondent

Before: The Honourable Justice Branch

Reasons for Judgment

Counsel for the Petitioner:

P. Daykin

S. Snape

Counsel for the Respondent:

N.L. Mills

Place and Date of Hearing:

Vancouver, B.C.

December 3, 2024

Place and Date of Judgment:

Vancouver, B.C.

January 14, 2025

I. INTRODUCTION

- [1] Before the Court were cross-applications for a variety of relief in this family law matter. However, the issues narrowed dramatically at the outset of the hearing when it became clear that the resolution of the more substantive issues regarding the parties' incomes for support purposes would need to await further document production by both sides. These reasons largely address those document requests.

II. BACKGROUND

- [2] The claimant was born in Tanzania on July 7, 1970, and became a resident of British Columbia in 1972. She was a homemaker until her separation from the respondent. She is now a disability claims manager.
- [3] The respondent was born on December 16, 1972, in Tanzania. He describes himself as a compliance officer/investment banker.
- [4] The parties were married on October 10, 1999. They have one daughter, born June 4, 2006. They divorced on February 16, 2012.
- [5] A final order, issued by consent, was pronounced by Justice Leask on June 24, 2013 (the "Leask Order"). As part of the Leask Order, the claimant was found to have an income for purposes of the Federal Child Support Guidelines [Guidelines] of \$62,000, while the respondent had a stated income of \$140,000. The order required the respondent to pay basic child support of \$1,245 per month. It provided for review as follows:

The basic child support amount shall be reviewed and adjusted in accordance with the Federal Child Support Guidelines each year on May 1st, commencing May 1, 2014, and the parties shall exchange all necessary documents to determine their respective Guideline incomes.

- [6] Section 7 expenses were largely based on a 65/35 split, with the respondent obviously paying the larger share. However, expenses for the child's attendance at the Mulgrave School were to be shared equally.

- [7] Pursuant to this review right, the claimant did follow up for documents from the respondent over the years, including on April 30, 2016, December 13, 2017, January 15, 2018, and January 1, 2020. She says she never received the full extent of documents to which she was entitled under the Leask Order.
- [8] The claimant alleges that the respondent ceased paying certain amounts he was ordered to pay under the Leask Order in January 2020.
- [9] The claimant also asserts that the respondent's income and child support obligations should be retroactively adjusted to account for his actual income, although she proposed that the resolution of this issue await the further document production she has requested.
- [10] For his part, the respondent claims that the claimant has not kept current with her required s. 7 contributions, particularly the requirement that she pay $\frac{1}{2}$ of the Mulgrave School expenses. He also alleges that his own financial condition has worsened such that he was required to declare bankruptcy in 2019. He signalled an intention to apply in due course for a retroactive reduction in child support given those financial difficulties, as well as on the basis that the child began living in a shared parenting arrangement.
- [11] On December 9, 2020, the claimant filed a formal application for better financial disclosure from the respondent. The Court issued production orders and further provided that, subject to the bankruptcy orders, the respondent would be fined \$5,000 if the documents were not produced by December 14, 2020. The claimant alleges that the documents were not produced, and that the associated fine remains outstanding.
- [12] The respondent was discharged from bankruptcy on January 27, 2021. The claimant says that on February 2, 2021, the respondent and his new spouse were nonetheless able to purchase a large home in West Vancouver for \$2.2 million. The respondent responds that this property is actually owned by his new spouse and her mother.
- [13] On November 29, 2024, the respondent swore an F8 Financial Statement ("F8") claiming expenses of \$283,080, but only reported income of \$220,000. He only claimed an interest in three companies: Triumph Advisory Group Ltd., Pantry Management Corp., and Rockwell Management.
- [14] The claimant's F8 dated September 24, 2024, reports an income for child support purposes of \$73,020.
- [15] The parties' daughter is now in her first year at Queen's University. There was no dispute that she is still a child of the marriage.
- [16] The claimant filed a Notice of Application on September 24, 2024, seeking various relief, including an adjustment of the support obligations and requests for further document production. At the hearing, the claimant: (1) sought to adjourn the orders sought in paragraphs 1, 3, 4, 5 and 6 of her application on the basis that the requests for the more substantive orders should await further and better document disclosure, and (2) accepted

that the document orders sought in paragraph 2(a)-(c) had already been satisfied by the respondent. The claimant did proceed with the balance of her application for the production of the documents described in paragraph 2 of her application. Specifically, she is seeking:

...

- d. A complete and full copy of the application package, and any accompanying documents, letters, bank statements, and net worth forms the Respondent submitted to the University of California Santa Barbara;
 - e. Financial statements and corporate income tax returns from 2013 to 2024 for the following corporations:
 - i. Salman Partners; Triumph Brands Corp.; Balkan Ventures; MK2 Ventures Ltd; Lobe Sciences Ltd; Greenstar Biosciences Corp.; Atelier Meats Corp., (formerly known as Future Burger Corp.); Senta Capital Inc.;
 - f. documents that set out the particulars of the Respondent's ownership interest, and that of any person who is not at arm's length to the Respondent, including shares, options, warrants and share units, in:
 - i. Salman Partners; Triumph Brands Corp.; Balkan Ventures; MK2 Ventures Ltd; Lobe Sciences Ltd; Greenstar Biosciences Corp.; Atelier Meats Corp., (formerly known as Future Burger Corp.); Senta Capital Inc.;
 - ii. and any other company in which he had or has an ownership interest, including a beneficial ownership interest held in trust or on his behalf, by any third party, including any ownership interest held by his wife, Katarina Ticieric.
 - g. Copies of all documents which set out the disposition of shares, options, warrants and share units by either the Respondent, Rahim Rajwani, or his wife, Katarina Ticieric, in any of the following entities, during the years 2013 to date:
 - i. Salman Partners; Triumph Brands Corp.; Balkan Ventures; MK2 Ventures Ltd.; Lobe Sciences Ltd; Greenstar Biosciences Corp; Atelier Meats Corp. (formerly known as Future Burger Corp.); and Senta Capital Inc.
- [17] The respondent's cross-application dated November 19, 2024, seeks the following relief:
- 1. An Order pursuant to Rule 10-3(4)(a) of the Supreme Court Family Rules that the Claimant shall attend for cross-examination on her Affidavit #4 made on September 24, 2024, and Financial Statement made on September 24, 2024, in support of the Notice of Application originally filed September 24, 2024.
 - 2. An order pursuant to SCFR Rule 9-1 the Claimant will produce the following documents within 30 days:
 - a. The Claimant's 2023 T1 General and Notice(s) of Assessment.

- b. A copy of the Claimant's mortgage application referred to the in the Claimant's WhatsApp messages to the Respondent dated April 19, 2022.
 - c. Particulars of the \$125,600 in personal loans listed in the Claimant's Form 8 Financial Statement filed September 24, 2024.
 - d. An accounting of all rental income received by the Claimant from 2013 - present.
 - e. Accounting of settlement proceeds received by the Claimant in trust relating to ICBC matter No. S195150.
 - f. The Claimant's clinical records relating to the nature and extent of the Claimant's disability which prevented her from working in 2020, 2021, 2022, and 2024.
- 3. An Order that the Respondent's post-separation contributions to the Child's RESP will not be utilized by the Claimant to meet the Claimant's obligations under S.7 of the Guidelines.
 - 4. A conduct order under s. 227(c) of the FLA that the Claimant will not blame, criticize, disparage or make negative comments to the Child.
 - 5. Pursuant to Rule 221(1) of the Supreme Court Family Rules, an order prohibiting the Claimant from making further applications or continuing these proceedings without leave of the court.
 - 6. Pursuant to Rule 221(2)(c) of the Supreme Court Family Rules, an order that the Claimant be required to pay:
 - a. the other party for all or part of the expenses reasonably and necessarily incurred as a result of the party's actions, including fees and expenses related to family dispute resolution,
 - b. an amount not exceeding \$5,000 to or for the benefit of the other party, or a spouse or child whose interests were affected by the party's actions, or
 - c. a fine not exceeding \$5,000.

III. ANALYSIS

A. Legal Framework

- [18] Parties to an application for child support and whose income information is necessary to determine the amount of the support must provide the court and the other spouse with the documents set out in s. 21(1) of the Guidelines. The obligation to make financial disclosure is a continuing one: Guidelines, s. 25(1).

B. The Claimant's Request for Documents

- [19] I agree that the claimant needs additional documents from the respondent in order to properly pursue her claim for a readjustment of child support. His F8 raises more questions than it answers. Specifically, it is a mystery how the respondent funds \$283,000 in after-tax expenses from the \$220,000 in pre-tax income he claims to be earning.
- [20] In terms of the specific contested requests, I find that the request set out in paragraph 2(d) is appropriate, being for the production of a copy of the application package and any accompanying documents, letters, bank statements, and net worth forms submitted to the University of California Santa Barbara as part of the child's application. The respondent suggested that he does not actually have any information regarding an application to this school. To make his obligation clear, I would add the words "in his possession or control" to more clearly allow for the possibility that he has no access to further documents.
- [21] In terms of paragraphs 2(e)-(g), the evidence gathered by the claimant is sufficient to support an inference that the respondent may have been involved with a number of corporations for which he has not yet provided adequate financial disclosure. Reviewing the various corporations:
- a) **Salman Partners:** The respondent agrees that he was a salaried employee of this company, but says that the company ceased operations in 2016. This assertion was supported by contemporaneous press reports.
 - b) **Triumph Brands Corp.:** The respondent agrees that he was a shareholder in this company. This company was eventually merged into Atelier Meats Corp. in 2023, discussed further below. The claimant was once asked by the respondent to write a cheque owing to the respondent to this company instead. The respondent responds that he only controlled this company for a short period in 2019.
 - c) **Balkan Ventures:** The respondent had some involvement in this company in 2013, but says that the company is now defunct.
 - d) **MK2 Ventures Ltd:** The respondent was a director of this company. The respondent was unclear as to whether he was a shareholder of this company. He was also unclear as to whether he had received dividends, or whether he received capital gains from a sale of shares of this company.
 - e) **Greenstar Biosciences Corp./Lobe Sciences Ltd.:** The claimant provided evidence of the respondent having received stock options in Greenstar Biosciences Corp. ("Greenstar"). The respondent was also noted as the chief executive officer of Greenstar as of June 19, 2020. Greenstar eventually merged into Lobe Sciences Ltd. The respondent accepted that he was a shareholder of one or the other company, and was unclear as to whether there had been a capital gain from the sale of any shares. He was also unclear as to whether or not he had received dividends. He does assert that the option strike price was never reached.

- f) Atelier Meats Corp.: In certain corporate documentation, the respondent is described as founder and strategic advisor for this company. The respondent agreed that he was a co-founder, and that he owns shares in the company. However, he says he is not presently an officer or director.
- g) Senta Capital Inc.: The respondent's wife is noted as being a director in this company. There was evidence of a child support payment being issued to the claimant from this company. The respondent explained that sometimes his wife helps him with his support obligations.
- [22] Given the uncertainty in the record regarding: (1) the potential for some form of income having flowed to the respondent from the bulk of these companies, and (2) the failure of his declared income to support his claimed expenses (unless financed by borrowing, the extent of which itself is unclear), I find that the claimant is entitled to further documents so that she can test the proposition that these various business ventures did yield funds for the respondent in some form.
- [23] Over the course of the hearing, the respondent eventually signalled a willingness to agree to terms requiring best efforts to obtain any active corporations' documents. Subject to certain clarifying language below, I find that the terms proposed by the respondent are fair and reasonable in the circumstances, particularly given the lack of evidence that the respondent remains in direct control of any of the companies. I have clarified the proposed terms below to ensure clarity and effectiveness. I have also required that the respondent commit formally to producing corporate documentation that might happen to be in his own possession.
- [24] I make the following orders:
1. Subject to Order 2 below, the respondent will make best efforts to obtain the information requested in paragraph 2(e) of the claimant's Notice of Application, save for information regarding the following entities: Salman Partners, Balkan Ventures, and Senta Capital Inc.
 2. The respondent will provide the requested financial statements for Atelier Meats Corp., Greenstar Biosciences Corp., Lobe Sciences Ltd. and MK2 Ventures Ltd.
 3. The respondent will provide any documents he has in his own possession that are responsive to paragraphs 2(e)-(g).
 4. The respondent will provide an affidavit setting out the personal ownership and disposition information requested in paragraphs 2(f) and (g).
- [25] The respondent declined to produce records for Salman Partners and Balkan given the evidence that they are defunct. I accept that there is little point in imposing a term to seek documents from defunct companies. Similarly, I find that there is inadequate information linking the respondent to Senta Holdings Inc. to justify any production order. Further, to be clear, I am not ordering production from the respondent's new partner or about the new partner's share ownership, given that she is not a party and was not named as a respondent to the application.

- [26] The claimant's application did not include a request for information from the company called "Northbay". However, there was some discussion about this company at the hearing, and the respondent indicated a willingness to make best efforts to obtain documents regarding this company in the same manner as the other companies noted above. I leave it to the parties whether they formally agree that the Court should include a formal consent order in this regard within the final order.
- [27] The respondent suggested that I should dismiss the balance of the claimant's proposed relief, rather than allow it to be adjourned, on the basis that the respondent was only advised late in the day that the claimant would not be seeking the more substantive relief. I find that this issue is more appropriately addressed as a question of costs.
- [28] I find that it was logical to put the preliminary and substantive orders in a single application given the sequential nature of the relief sought, i.e. that documents were necessary in order to properly address the substantive orders. However, it is fair to suggest that the claimant should have advised the respondent at an earlier stage that the application would proceed in two phases. That said, I find that the costs issues would be more appropriately and comprehensively addressed as a package once the result of the requests for the substantive orders is considered. If the application for the substantive orders proceeds in any event, there is less prejudice to the respondent in the manner the claimant chose to proceed.
- [29] As such, I decline to dismiss the substantive aspects of the application, but rather adjourn them, and reserve the issue of costs of this application for later determination, on the terms set out below.

C. Respondent's Cross-Application

- [30] The respondent seeks an order to cross-examine the claimant. The claimant indicated that she would agree to such an order so long as the respondent also agreed to an examination. The respondent agreed to that condition, and I so order.
- [31] As noted, the respondent also sought a series of production orders. The claimant voluntarily agreed to produce the following items (using the numbering system from the respondent's Notice of Application), and I so order:
- 2(a): Her 2023 personal income tax return and notice of assessment;
 - 2(c): Particulars of the personal loans listed in her Form F8;
 - 2(d): An accounting of any rental income she has earned; and
 - 2(e): An accounting of any funds held in trust relating to the child's personal injury claims.
- [32] The claimant objected to the production requested in the remaining subparagraphs, being:
- 2(b): The claimant deposed that she has not bought or sold real property since the making of the Leask Order, and accordingly, the information sought about a potential mortgage is not relevant.

· 2(f): Clinical records: The claimant asserts that her medical records are not relevant to the determination of any issue in this proceeding.

[33] In relation to 2(b), I find that the order should issue. If the answer is that there was, in fact, no mortgage applied for or obtained on any property, that should be simple to confirm.

[34] In relation to 2(f), I find that it is overly intrusive and insufficiently relevant to order the production of clinical records at this time. There have not yet been examinations for discovery at which the respondent has tested his theory that the claimant is under-employed

[35] It is possible that the respondent may develop a stronger factual foundation for such an order at a later time. As such, I simply adjourn the request for clinical records.

[36] In paragraph 3, the respondent seeks an order that the respondent's post-separation contributions to the Child's RESP not be utilized by the claimant to meet the claimant's obligations under s. 7 of the Guidelines. At the hearing, the respondent suggested that what he was seeking was more in the nature of an accounting for the funds he has contributed, and detail on the growth upon the funds contributed. I am prepared to make an order that the parties jointly request that the RESP's fund manager provide the following details: (1) the contributions received by either party since separation, (2) the growth in the RESP since separation, and (3) any distributions from the RESP since separation. I am not at this stage prepared to grant a declaration that the respondent's contributions be characterized in a particular manner, nor am I prepared to impose any particular restrictions on the use of the RESP funds beyond those already in place at law. Such matters should be left for trial.

[37] In terms of paragraph 4, the parties agreed on a "two-way" conduct order. Using the respondent's language as a base for the order, I order that the parties not blame, criticize, disparage or make negative comments to their child about the other party.

[38] Any relief sought in either application not discussed expressly in this judgment should be treated as adjourned generally.

IV. CONCLUSION

[39] My orders are detailed above.

[40] In terms of the costs of these cross-applications, I order that the determination be adjourned until the hearing of the substantive relief sought in the claimant's Notice of Application. However, to assist any subsequent decision-maker, I make the following findings:

- a) Several items in both applications were eventually resolved by consent;
- b) As far as the contested items, there was mixed success;
- c) Both parties have been ordered to produce further documents; and
- d) Several elements of the relief sought were adjourned.

[41] If the claimant has not proceeded with the balance of her application within three months of the respondent satisfying the production orders made herein, either party has leave to set down a one-hour hearing at 9:00 am via MS Teams before me to address the issue of costs if they are not able to come to an agreement themselves.

"The Honourable Mr. Justice Branch"

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