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CANADA / JUDGMENT

## Sandhu v. Bhullar

2016 BCSC 287

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COURT

Supreme Court of British Columbia

DECIDED

8 January 2016

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2016 BCSC 287 Sandhu v. Bhullar

IN THE SUPREME COURT OF BRITISH COLUMBIA

Citation:

Sandhu v. Bhullar,

2016 BCSC 287

Date: 20160108

Docket: E152259

Registry: Vancouver

Between:

Davinder Kaur Sandhu

Claimant

And

Ruby Singh Bhullar, Surinder Kaur Bhullar

and Baljinder Singh Bhullar

Respondents

Before: The Honourable Mr. Justice Pearlman

Oral Reasons for Judgment

In Chambers

Counsel for the Claimant:

Matthew T. Ostrow

Counsel for the Respondent Ruby Bhullar:

Brandon D. Easton

For the Respondents Surinder Bhullar and Baljinder Bhullar:

No appearances

Place and Dates of Hearing:

Vancouver, B.C.

January 6-7, 2016

Place and Date of Judgment:

New Westminster, B.C.

### January 8, 2016

- [1] THE COURT: The claimant Davinder Kaur Sandhu and the respondent Ruby Singh Bhullar bring cross applications for interim relief in which a total of over 20 orders are sought. Most of those orders relate to the hotly-contested dispute between the parties concerning parenting arrangements and parenting time for the one child of the marriage, Daya Singh Bhullar, born October 25, 2014, and now almost 15 months old.
- [2] The hearing of this application has occupied two and a half days. I have considered the submissions of counsel and the portions of the material to which I was directed during the course of counsel's submissions, and I have concluded that in order to clearly and concisely deal with the issues of parenting time, any sharing of parental responsibilities, and the determination of child support issues, I should take some additional time to fully review the materials and then provide written reasons. It will probably assist the parties and counsel to have written reasons, as well, and I will provide those reasons to the parties before the end of next week.
- [3] I do propose to deal with a number of the procedural orders sought on this application and I will begin by dealing with the order sought at paragraph 1 of the claimant's notice of application of November 19, 2015. That is an order for a custody and access report with respect to Daya to be completed by an agreed-upon professional pursuant to s. 211 of the Family Law Act, S.B.C. 2011, c. 25, with costs to be shared equally between the parties.
- [4] There are claims and counter-allegations raised with respect to each parent's fitness to care for the child, allegations concerning issues relating to anger and generalized allegations that the claimant has engaged in forms of abnormal behaviour. Given the fact that this case really focuses on the well-being of a very young child, in my view, it would be beneficial, both to the parties and to the court, to have the assistance of an assessment completed by a qualified psychologist who can prepare a report that addresses the needs of the child, makes recommendations with respect to appropriate parenting arrangements, and provides an

assessment of the capacity and abilities of each of the parents to discharge their parental responsibilities and obligations for the care of the child.

- [5] That report should involve interviews by the psychologist with each of the parents and an opportunity, or such opportunities as the psychologist determines are appropriate, to observe each of the parents while the child is in their care. I would certainly recommend that the parties select a qualified psychologist to prepare this report and, if possible, find an expert who is available and able to provide the report within a reasonable period of time, hopefully well in advance of the October 11, 2016, trial date. I say that both to ensure that both parties have a full opportunity to consider that report prior to the trial, and also in the hope that there might be recommendations or advice and analysis provided that may assist the parties in perhaps resolving some or all of the outstanding issues before trial.
- [6] The cost of the s. 211 report will be shared equally by the parties.
- [7] The second order sought by the claimant is an order pursuant to s. 225 of the Family Law Act restricting the respondent's communications in the child's care book to facts about the child's care. Dr. Bhullar opposes that order, taking the position that he has made communications and should retain the ability to make further communications which include suggestions or advice or recommendations about how the claimant should conduct herself in the child's best interests.
- [8] In light of the very high level of conflict between the claimant and the respondent, the incorporation of those kinds of communications in the care book is really nothing more than a further source of acrimony between the parties, whether or not Dr. Bhullar intends that to be the result.
- [9] The order that I make pursuant to s. 225 is that the claimant and the respondent will confine their communications in the child's care book to facts about the child's care, including matters relating to the child's health, hygiene, activities, medical or dental appointments, or any other matters that either party believes it is important to bring to the attention of the other parent concerning the child's immediate and ongoing need for care. Each party will refrain from making comments about the conduct or behaviour of the other party in their communications in the care book.
- [10] I turn next to the relief sought at paragraph 7 of the claimant's notice of application. There the claimant seeks an order for production by the respondent of eight classes of documents. Pursuant to the requirements of the Supreme Court Family Rules, on October 26, 2015, the claimant made a request in writing for additional documents. The documents she requested were those now enumerated in paragraph 7 of her notice of application.
- [11] I am satisfied that all of the documents sought are within the respondent's possession, power, or control. I am also satisfied that those documents relate to a matter in question in the family law case. That question or issue is the determination of the respondent's income, specifically for child support purposes.

- [12] The respondent is prepared to disclose all of his personal, bank, and credit card statements, and all of the corporate bank and credit card statements, as well as the general ledger for his professional corporation, Dr. Ruby Bhullar Inc. Dr. Bhullar has also agreed to provide financial statements for each of the other corporations in which he has an interest, those being Drs. Bhullar, Shivji, Vigneault Inc., Dr. R. Bhullar and Dr. A. Shivji Inc., and Dr. Bhullar, Shivji, and Sharma Inc. However, he opposes the production of bank and credit card statements and general ledgers for the three latter corporations.
- [13] During the course of submissions, counsel for the claimant drew the court's attention to various entries in the financial statements which have been produced to date for the corporations in which Dr. Bhullar has an interest. Among other things, the financial statements for Drs. Bhullar, Shivji, and Vigneault Inc. for 2014 show an expense for associate fees of \$105,000 paid to Dr. Ruby Bhullar Inc. There is a similar entry for fees paid to Dr. Ruby Bhullar Inc. by one of the other corporations in the amount of \$28,000.
- [14] I am persuaded that in order to ensure full disclosure of all relevant information related to Dr. Bhullar's income and sources of income that may be available for the payment of child support, it is appropriate to make the order sought by the claimant and I therefore make the order in the terms set out in paragraph 7 of the claimant's notice of application.
- [15] I understand that Dr. Bhullar likely based his opposition to the production of the documents relating to the corporations in which he has an interest on concerns respecting the dissemination of information that could potentially provide competitors with information to which they are not entitled, and on concerns about protecting the privacy of financial affairs that affect not only him, but also his associates who are partners in the various clinics operated through these three entities.
- [16] In my view, that interest or concern may be addressed by the imposition of terms in the order limiting and restricting both the use and the dissemination of the information contained in the general ledgers and statements relating to the three corporations. First of all, it goes without saying that any information contained in those materials may only be used for the purposes of this litigation. The bank statements, general ledgers, and any credit card statements relating to Drs. Bhullar, Shivji, Vigneault Inc., Dr. R. Bhullar and Dr. A. Shivji Inc., and Drs. Bhullar, Shivji, and Sharma Inc. will be produced to counsel for the claimant.
- [17] Counsel for the claimant will retain the copies of those materials at his office. Counsel may provide access to those materials to any expert who may be retained to provide accounting or financial advice for use at the trial of this action, on that expert's undertaking to keep any of the records or information in the records provided to him confidential and to not disseminate it in any form other than through a report prepared for use at the trial of this action.
- [18] If there are any other conditions with respect to confidentiality or any other restrictions that counsel wish to raise, they may do so when I conclude these reasons.

- [19] I turn next to the claimant's application for the return of personal items. When the claimant left the former matrimonial home, initially to stay at her parents' residence and then subsequently to remain there following the events of August 8, 2015, she left most of her personal belongings behind her. Many of her personal effects have already been returned to her. The claimant has deposed that the items she now seeks, which are enumerated at paragraph 8 of the claimant's notice of application, consist of her jewellery and, in addition to that, a number of items which are of sentimental value to her and were either purchased by her or by her parents for Daya.
- [20] The respondent has indicated through counsel that he is prepared to return some of the items, but generally takes the position that the claimant has a full nursery at her parents' Vancouver home where she presently resides, and that some of these items he uses in the course of his care of Daya when Daya is with him.
- [21] I am satisfied that the court has the authority to make an interim order dealing with the possession of personal property. Section 90 of the Family Law Act, subsection (2)(b) provides:
- (2) The Supreme Court may make an order granting a spouse, for a specified period of time,
- ...
- (b) possession or use of specified personal property stored at the family residence, including to the exclusion of the other spouse.
- [22] Section 91(2) provides the Supreme Court may make a number of orders, including the order provided for in subsection (2)(a), an order for the possession, delivery, safekeeping, and preservation of property.
- [23] The items of jewellery claimed by the claimant are listed at Part 3 of her Form 8 financial statement dated October 14, 2015, and in addition to a wedding ring, consist of bracelets, a tiara, and other items of personal adornment. Some of the items listed in the claimant's Form 8 financial statement are already held in a safety deposit box at a branch of the Bank of Montreal, others remain at the respondent's residence. I understand that both the ownership and the valuation of some, at least, of the jewellery will be in issue at the trial of this action. There is already an order in effect restraining either party from disposing of property in their possession pending the trial and further order of the court.
- [24] In the circumstances of this case, having regard to the nature of the items of jewellery, all of which appear to be items of women's jewellery, I am persuaded that it is appropriate to make the order sought by the claimant with respect to the jewellery. There will be an order that the respondent will forthwith deliver to the claimant all of the items of jewellery listed in Part 3 of the claimant's Form 8 financial statement made October 14, 2015, that are in his possession. All of those items, as I say, are to be delivered to the claimant forthwith. The claimant will retain all of those items in her possession pending the trial of this action, further order of the court, or any agreement the parties may make with respect to the

disposition of the jewellery.

- [25] The last matter that I intend to deal with this afternoon is the application of the respondent for an order that the parties retain the services of a parenting coordinator to resolve ongoing disputes between them. That is the order sought at paragraph 6 of the respondent's notice of application filed November 23, 2015.
- [26] Counsel for the respondent submitted that the appointment of a parenting coordinator would likely assist the parties in managing exchanges of the child and reducing the conflict which has occurred from time to time when the child is being either picked up or delivered from one parent's home to the other.
- [27] The claimant opposes the application, primarily on the basis that the parties have incurred substantial legal fees in this case to date, that they are faced with the prospect of the very substantial costs of a 14-day trial, and now, too, with the costs of preparation of an expert report pursuant to s. 211 of the Family Law Act. The claimant also says that at this stage there is little need for a parenting coordinator. The child is not yet of an age where decisions need to be made about his schooling, and where each of the parents, as guardians, is in a position to make decisions with respect to his day-to-day care and immediate medical needs and that type of thing.
- [28] In my view, the appointment of a parenting coordinator, particularly in cases where there has been a history of substantial conflict between the parents, is very often of assistance, particularly where the court has made an order that requires implementation over a significant period of time and where, in the course of their ongoing dealings with each other under the terms of the court's order, there may be further conflict between the parties.
- [29] At this interim stage, I am not satisfied that the costs of retaining and engaging a parenting coordinator pending the trial of this action would produce a benefit to Daya that would justify that expenditure. Both of the parties are highly intelligent professional people. They have now had the experience of preparing for and sitting through a two-and-a-half-day chambers hearing, which has been largely concerned with a debate about each of their roles in the child's parenting and instances of conflict during the course of their relationship. I would hope that, having had this experience, the parties would learn something from it and that, between now and the date of the trial, will do their very best to manage their communications, particularly in the presence of the child, in a way which will avoid any further exposure on his part to angry outbursts by his mother or father or other family members.
- [30] The application for the appointment of a parenting coordinator is dismissed. However, my disposition of this interim application is by no means intended to restrict either party from seeking the appointment of a parenting coordinator at or following the trial of this action. When there is a final order, and particularly if the final order involves multiple directions to the parties, it may very well be useful for the parties to engage a parenting coordinator.

[31] I will address all of the remaining applications in my written reasons. As I say, if counsel wish to make any further submissions about restrictions on dissemination or use or the financial records of the three corporations, I am certainly prepared to hear from you.

[SUBMISSIONS]

[32] THE COURT: It seems to me that the order I have made should adequately address the interests of his business associates. Having said that, and this is simply an observation, if for some reason Dr. Bhullar's associates have concerns about disclosure of this information, I do not see that they would be foreclosed from bringing an application of their own. But the whole purpose of the order that has been made this afternoon is to restrict the dissemination of the information contained in these documents and to limit its use solely for the purpose of this litigation and solely for the purpose of determining his income, because it is one of the central issues in this litigation.

[33] MR. EASTON: Very good, My Lord, thank you.

[SUBMISSIONS]

[34] THE COURT: I have heard the submissions of the parties about the extent to which Mr. Justice Brown's order may or may not have led to any disruption to Daya's sleep patterns, but in light of the fact that I intend to make an order dealing with parenting time within the week, it seems to me that the appropriate order is that the present parenting time enjoyed by Dr. Bhullar, that is from 10:00 a.m. to 5:00 p.m. on Wednesdays, Saturdays, and Sundays, will continue pending the release of my written reasons for decision.

[SUBMISSIONS]

[35] THE COURT: With respect to the two large framed photos of Daya, my order is that one of those two photos be returned to the claimant and the other one will be retained by Dr. Bhullar. The claimant can choose which one she wishes to have returned.

[36] The mom and baby pregnancy scrapbook, the Mothercare brand blue quilted jacket, Daya's wooden dog toy, the I Love You Forever book, and the two costumes will also be returned to the claimant.

[37] Does that take care of everything?

[38] MR. OSTROW: Yes, that was everything from me, My Lord.

[39] THE COURT: I would like to thank counsel for their very full submissions. I am not sure I have ever been presented with quite so much material on an interim application. Thank you.

"PEARLMAN J."

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