

HONG KONG / JUDGMENT

D v. W

COURT

Court of First Instance

DECIDED

24 May 2002

CASE / FILE NUMBER

HCMP1953/2002

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bjbj HCMP 1953/2002 IN THE HIGH COURT OF THE HONG KONG SPECIAL ADMINISTRATIVE
REGION COURT OF FIRST INSTANCE MISCELLANEOUS PROCEEDINGS NO. 1953 OF 2002

BETWEEN D Petitioner and W Respondent

Before: Deputy High Court Judge Lam in Chambers Date of Hearing: 24 May 2002 Date of Ruling:
24 May 2002

R U L I N G

This is my ruling regarding interim arrangement for the wards between 24 May and 10 June 2002. I consider that it is in the best interest of the children that the mother and the father should live apart at least for a short duration. Hence, in respect of the interim arrangement between now and 10 June 2002, I will strive to achieve that if I could. This is in fact recognised by the father and he undertakes to this court that he would not go to Robinson Place. The mother is also willing to give an undertaking to this court that she would not return to Broadview Villa between now and 10 June 2002. However the parties cannot agree with each other as to the interim arrangement for the children. I have to decide that in the light of the information available. I do not think it is right for me to make no order today. Given the acrimonious state of affairs between the parties, unless there is an order to regulate them, I believe that they would act in ways inconsistent with the interest of the children. I bear in mind what Mrs Casewell submitted to me regarding the risk of upsetting the routine of the children if they were moved to a new residence. That is certainly an important consideration regarding young children. However, I am of the view that their environments would be changed in any event. The mother would not be living with them (although the father alleges that they are used to that). The maid would be going away. I also bear in mind that the wards are young children and they should be allowed to maintain substantial

contacts with their mother. Although the father said he has been the primary carer for the children, this is disputed by the mother. Further, the departure of the maid may create difficulties in terms of child care provided by the father on his own. There are allegation of excessive drinking against the father. I understand the father is disputing that. The mother undertakes that she would continue to observe the routine of the 2 younger daughters if they stay with her. In my judgment, this is a case where a certain degree of disruption is inevitable but I think I can minimise the same. On balance, I think the best arrangements regarding the two younger daughters would be as follows:

- (1) subject to (2) below, between 24 May to 10 June, they would reside with the father at Broadview Villa, during which the mother would have access on Monday, Wednesday and Friday between 9:00 a.m. to 11:00 a.m..
- (2) the mother shall have staying access of the 2 daughters from every Friday to Monday. The mother could pick them up at 10:00 a.m. every Friday and return them at 6:00 p.m. every Monday. Staying access of mother would start from 31 May 2002. The mother shall have visiting access on 25 May 2002 between 10:00 a.m. and 6:00 p.m. As to Ruby, there is no serious disagreement. I order that she shall continue to reside with the mother at Robinson Place, with access to the father as follows: on Sunday between 10:00 a.m. to 6:00 p.m. after school on Tuesday and Thursday to 7:00 p.m. Lastly, I would record that the undertakings given by the parties are subject to the obvious exception that they could go to the other s residence for picking up and returning the wards for the exercise of their rights of access. (M H Lam) Deputy High Court Judge Mr Neal Clough, instructed by Messrs Tsang, Chan & Woo, for the Plaintiff Mrs Casewell, of Messrs Boase, Cohen & Collins, for the Defendant - PAGE - & 6" HCPI No Alice LH Yu HCMP.dot setup Microsoft Word 9.0 HCPI No Title Microsoft Word Document MSWordDoc Word.Document.8

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