

HONG KONG / JUDGMENT

LL v. GR

[2026] HKFC 6

COURT

Family Court

DECIDED

5 January 2026

CASE / FILE NUMBER

FCMP220/2024

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FCMP 220 /2024

[2026] HKFC 6

IN THE DISTRICT COURT OF THE

HONG KONG SPECIAL ADMINISTRATIVE REGION

MISCELLANEOUS PROCEEDINGS

NUMBER 220 OF 2024

IN THE MATTER OF sections 3, 3A, 3B, 5 and 7 of the Domestic and Cohabitation Relationships
Violence Ordinance (Cap. 189)

and

IN THE MATTER of LZ, a minor, born on 16 March 2014

BETWEEN

LL

Applicant

and

GR

Respondent

Coram : Deputy District Judge Jacqueline Lee (Not open to public)

Date of Hearing: 5 January 2026

Date of Judgment: 5 January 2026

NON MOLESTATION ORDER AND OUSTER ORDER

Introduction

This is the respondent (“Mother”)’s application for (1) non-molestation order restraining the applicant (“Father”) from molesting the younger daughter of the family, LZ; and (2) ouster order prohibiting the Father from entering or remaining in Tin Hau MTR station and LZ’s school.

I gave my brief reasons for the decision at the end of the hearing. I now give my full reasons.

Background

The Father and the Mother were married on 22 January 2001 in China. They have two daughters, who were 21 and 11 years old.

The Mother brought the daughters to live and study in Hong Kong since 2017, while the Father remained to work in China. The Father travelled to Hong Kong to visit the family from time to time.

Since the COVID outbreak in 2021, the Father reduced his travel to Hong Kong and he found that he had difficulty to get in touch with the daughters.

On 25 October 2024, the Father took out an application regarding access to LZ.

Access to LZ was facilitated by the social welfare officer. LZ however only attended one time access with the Father at the co-parenting centre. LZ refused to have further access with the Father. According to the Social Investigation Report dated 2 May 2025, the social welfare officer raised her concern about the psychological well-being of LZ.

On 10 June 2025, Master Chak appointed two single joint experts to conduct assessment and carry out treatment for LZ.

The Mother took out the present inter-parte summons on 25 August 2025. The Mother said on 20 June 2025, the Father forcefully grabbed LZ’s arm at the Tin Hau MTR station (“Tin Hau Station incident”), because LZ refused to follow him to meet with his relatives. As a result of which, police was being called by passer by.

According to a letter issued by the Hong Kong Police Force on 3 July 2025, the Tin Hau Station incident was classified as “dispute”. Upon police enquiry revealed that the Father would like to bring LZ to visit his relatives but both LZ and the Mother refused.

The Mother also complained that the Father attended LZ's school ceremony without prior notice. The Mother contended that the daughters were terrified upon seeing the Father.

The Mother further complained that the Father appeared at LZ's school bus stop and followed LZ into the elevator on 28 August 2025. On 29 August 2025, the Mother said the Father appeared at the lobby of LZ's living place and followed her to the school bus stop ("the School Bus Stop incidents").

The Mother adduced a medical letter written by a clinical psychologist, Dr Keung. Dr Keung met with LZ previously, but the Mother cancelled the scheduled appointment in August 2025 and said LZ became very distressed when recalling the Tin Hau Station incident.

The Father's stance

The Father opposed the Mother's application on the ground of devoid of merits and her versions of the events were simply untrue.

The Father said there is simply no legal basis for the Mother to restrain him in appearing in public area such as Tin Hau MTR station, in particular, his rented property is also located in Tin Hau.

The Father highlighted that he had good relationships with the daughters, but for their long separation since COVID outbreak. The Father complained that as at today, he is still unable to exercise his access to LZ in accordance with the court order dated 16 May 2025.

The Mother was absent at the hearing. She also failed to comply with the order dated 3 September 2025 to file her affirmation in reply and skeleton submissions. The Mother, however, continued to file various summons to uplift LZ's removal restrictions over the last few months. The Father informed the court that he saw the Mother this morning at LZ's school bus stop.

The Mother was present at the hearing on 3 September 2025 and I was satisfied that she had knowledge of today's hearing. I considered that it was appropriate to proceed with the hearing in the absence of the Mother.

The law

The court is empowered to grant non-molestation and restraining orders under section 3 of the Domestic and Cohabitation Relationships Violence Ordinance, Cap.189, which states:

(1) On an application by a person the District Court, if it is satisfied that the applicant or a specified minor has been molested by the spouse or former spouse of the applicant and subject to section 6, may grant an injunction containing any or all of the following provisions—

- (a) a provision restraining the respondent from molesting the applicant;
- (b) a provision restraining the respondent from molesting any specified minor;
- (c) a provision prohibiting the respondent—

...

(ii)(where the specified minor has been molested by the respondent) from entering or remaining in—

(A)the residence of the specified minor;

(B)a specified part of the residence of the minor; or

(C)a specified area whether or not the residence of the minor is in that area,

whether or not the residence is the common residence of the minor and the respondent;

...

(2)In exercising its power to grant an injunction containing a provision mentioned in subsection (1)(c) or (d) the District Court shall have regard to the conduct of the parties, both in relation to each other and otherwise, to their respective needs and financial resources, to the needs of any specified minor and to all the circumstances of the case.

When the court considers an application for ouster order, the court has a statutory duty to consider the factors which are set out in sections 3(2), 3A(6) and 3B(4) of the Domestic and Cohabitation Relationships Violence Ordinance. These factors included the conduct of the parties, and all the circumstances of the case.

Discussion

Based on the statutory provisions, the court is required to consider whether LZ has been molested by the Father.

Whether LZ has been molested by the Father?

Deputy District Judge Melloy (as she then was) in *P v C* [2007] HKFLR 195 unreported, FCMC 9655/2005, 26 September 2006, set out the legal definition of molestation in paragraphs 22-24 of the judgment. In determining whether there has been molestation, there usually has to be a form of intent, which includes an intent to cause distress and harm.

In gist DDJ Melloy said:

72. It is clear from the evidence that there was molestation and indeed physical assault committed by the husband against the wife prior to the parties' entering into non molestation undertakings on the 4th April 2006. Thereafter, I am of the view that the molestation, in terms of the definitions set out above, was ongoing i.e. although there was no actual physical violence there was a high degree of harassment and intimidation deliberately perpetrated by the husband against the wife. It went beyond mere scolding. (emphasizes added)

Deputy District Judge Remedios (as she then was) in *P v L* [2007] 1 HKLRD 26 at paragraph 51 said:

A non-molestation order should only be granted where there is some conduct which clearly harasses and affects the applicant to such a degree that the court's intervention is necessary.

It was the Mother's case that the Father grabbed LZ's arm at the Tin Hau MTR station and the Father attended LZ's school ceremony without prior notice.

Tin Hau Station incident

While it was not disputed that the Father grabbed LZ's arm at the Tin Hau Station incident, there was no evidence to suggest that the Father had intentionally hit or injured LZ. Both parties entered in arguments and LZ refused to follow the Father, as a result of which the Father tried to grab LZ to follow him.

There was no evidence of any further police investigation of domestic violence against the Father.

Although the Mother submitted a medical letter written by Dr Keung, but I found that the said letter was of no assistance. LZ did not even meet with Dr Keung for the purpose of preparing the said letter. Dr Keung prepared the said letter simply based on the Mother's account of the situation of LZ. LZ had not even seen by Dr. Keung in the alleged aftermath of the Tin Hau Station incident, that in itself was insufficient evidence, on the balance of probabilities, for a finding that the Father's one-off behaviour had affected LZ to such a degree that the court's intervention is necessary.

Save and except the Tin Hau Station incident, there was no evidence to suggest that the Father had in the past committed family violence. Even if the Father had grabbed LZ's arm in the heat of the argument with the Mother, it is doubtful whether he had the necessary intention to cause distress and harm.

I accepted the Father's explanation that he was frustrated with access issues with LZ, and he had no intention or knowledge to cause any harm to LZ.

The Father appeared to be trying to gain access to LZ and getting LZ to follow him to visit his relatives but LZ did not respond in the way he wanted to.

The Father's reactions and actions, even if the Mother's version was true (which I did not accept), I found they were not exemplary, and it would be of benefit for him to reflect into how his actions and reactions impact others. However, in my view the Tin Hau Station incident was a one-off incident which did not meet the threshold of molestation that require the court's intervention.

The Father appeared at LZ's school ceremony

There was no evidence to suggest that the Father had behaved in a manner, which would cause nuisance to the school. I also accepted the Father's submissions that if the Father did pose immediate threat of harassment to LZ by showing up at LZ's, school, LZ's school might have made a report to the police.

I found that the Father, as a parent of LZ, there was no reason why he should be restrain from going to LZ's school. I did not accept the Mother's case that the Father had caused any threat to LZ when he appeared at LZ's school.

The School Bus Stop incidents

The Mother further alleged that LZ was not willing to go to school as the Father showed up at LZ's school bus stop.

Again, for the School Bus Stop incidents, there were simply no evidence to suggest that the Father had caused any threats to LZ by the mere fact of showing up at the school bus stop.

Ouster Order

Since I was not convinced that the Tin Hau Station incident nor the School Bus Stop incidents met the threshold of molestation, the Mother's application for ouster order was bound to fail.

Conclusion

For the reasons stated above, I found the Mother's application was wholly unfounded on law or fact, and should not have been put forward at all.

I dismiss the Mother's summons filed on 25 August 2025.

Since the Father is not asking for costs, I make no order as to costs of this application, including all costs reserved.

Other matters

According to the Social Investigation Report, the social welfare officer raised concern about the psychological well-being of LZ. As a result of which, the court had appointed two single joint experts to assess LZ's condition and carry out treatment for LZ, however, the Mother continues to refuse to schedule an appointment for LZ. The well-being of LZ is the paramount concern of the court. The Mother shall schedule an appointment for LZ to meet with the single joint experts without further delay.

Jacqueline Lee

Deputy District Judge

Mr Felix Li and Ms Natasha Yu instructed by Messrs Stevenson, Wong & Co for the Applicant

The Respondent acting in person and absent

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