

HONG KONG / JUDGMENT

TRH v. KCS**[2023] HKFC 182****COURT**

Family Court

DECIDED

7 September 2023

CASE / FILE NUMBER

FCMC8704/2023

Source: legalref.judiciary.hk · Research copy typeset by Esheria. Not court-issued or certified.

bjbj FCMC 8704/2023

**[2023] HKFC 182 IN THE DISTRICT COURT OF THE HONG KONG SPECIAL ADMINISTRATIVE
REGION MATRIMONIAL CAUSES NO. 8704 OF 2023**

BETWEEN TRH Petitioner and KCS Respondent

Coram: H.H. Judge C.K. Chan in Chambers (not open to the public) Date of Hearing: 7 September
2023 Date of Decision: 7 September 2023 (12:00 noon)**D E C I S I O N (INTERIM ACCESS)**

There are 2 summonses before me this morning, one from the petitioner father (the father) and the other one from the respondent mother (the mother). The father s summons was issued on 16 August 2023 asking for:

- (1) Interim shared care and control of the 2 children of family on a 2-2-5-5 basis, i.e. 2 consecutive days in the father s care, followed by 2 consecutive days in the mother s care, and then 5 consecutive days in the father s care, and followed by 5 consecutive days in the mother s care. This is in effect a request for equal sharing of care and control of the children.
- (2) Pending the court s decision on the above, an interim arrangement for weekday morning drop-off (i.e. the father taking the children to school); weekly evening access from after school to 9:00pm on Tuesday and Thursday; and weekend access from Sunday 7:00 am to Monday morning when school starts.

- (3) The calling of a Social Investigation Report and a Child Psychologist Report. This was followed by the mother's summons dated 29 August 2023 asking for:
- (1) The children to attend therapy with a child psychologist.
 - (2) The parties and 2 children to attend family therapy.
 - (3) Pending recommendations from child psychologist and family therapist on access, interim access to the father by way of weekday morning drop-off but to be supervised by the maternal grandmother or the children's god-mother; and electronic access by way of zoom/Whatsapp call on Mondays, Wednesdays and Sundays.
4. Just a few words on the background. The parties were married in 2004 and separated on 31 May 2023. There were 2 children, both boys, born within wedlock and they are now aged 11 and 8 respectively.
5. After the father moved out of the former matrimonial home on 31 May 2023, it is now the case of the father that access to the children became very difficult. He was only allowed to see the children on 6 occasions, and starting from about July, his request for access was totally denied. In order to see the children, the father had to make arrangement to see them at school for very short period of time. He said before separation, he used to be a very hands-on father, maintaining a very close relationship with the children. Therefore, he now asks for an interim equal sharing of care of the children in order to maintain that close relationship.
6. On the other hand, it is the mother's case that she has all along been the main carer and the role of the father was always a fun-father. She said after separation, it was the father who refused to access the children on a more frequent basis. He even refused to join the family trips to Tokyo and the USA. On 28 July 2023, an unhappy incident happened outside the former matrimonial home for about 2 hours, during which the father simply refused to enter even upon the request of the children. On another day, the father's unannounced attendance at the school has also caused alarm to the boys. In order to move things forward, the mother did request the children and the family to attend family therapy which was unreasonably refused by the father.
7. In support of their respective application, each party has filed a very substantive affidavit. The narrative of the father's supporting affirmation was 34 pages but with exhibits of 449 pages. There was also a Form J of 36 pages. In reply to the mother's affidavit, the father has filed another second affirmation of 18 pages.
8. The narrative of the mother's affidavit was 41 pages, with 234 pages of exhibits. There was another Form J of 24 pages.

9. It is totally out of all proportion as far as the argument on interim access is concerned. The court is simply not in a position to read all these materials in this very short period of time. I think it is high time for legal representatives to advise their clients and to instill some sense of proportionality in the litigation.
10. In view of this tsunami of information, I confess that I could only focus my attention on the narrative part of the affidavits. Only casual attention could be spent on the exhibits.
11. Judging from those affidavits, there were numerous allegations and counter allegations, on which there is no way for this court to form a definite view. Basically, each party alleged the other to have psychological or emotional problems. The father said his efforts to access the children were unreasonably obstructed or denied by the mother. The mother denied and said the father refused to have close contact with them after separation and his later strange actions have also caused alarm and much distress to the children. Therefore, she would now only agree to limited supervised access to the father in the meantime. She also advocates the engagement of psychologist and family therapist in order to give assistance to the family, in particular, to the children.
12. As I said before, it is not possible for this court to form a definite view on the parties respective claim. My preliminary view is that even though both parties are loving parents, it seems more likely that the mother must have spent more time in the care of the children in the past. The father did have and still has a business to attend to. After separation, the so-called status quo, though short in terms of time, is that the children stay with the mother, the maternal grandmother and 3 domestic helpers in the former matrimonial home. On the other hand, the father stayed alone in a separate residence nearby. Under these circumstances, I do not consider it to be in the children's best interest for this whole arrangement to be upset and turn it into an equal sharing of care and control even on an interim basis.
13. However, it is wholly unsatisfactory for a loving father not having reasonable access to the children since July 2023. Pending the recommendations of the Social Investigation Officer, the father should be given interim reasonable access, which in my view, should include at least the following arrangement:
 - (1) Daily morning drop-off access during school weeks, i.e. the father shall take the children to school: on Monday, Wednesday and alternate Friday morning for the elder son, and Tuesday, Thursday and alternate Friday morning for the younger son.
 - (2) Every Tuesday and Thursday after school to 9:00 pm.
 - (3) Every Sunday from 9:00 am to 9:00 pm. I am convinced that supervision by third party during access is unnecessary. But if the above access should coincide with the ECA already arranged for the boys, I would expect the father to take them to those ECA. The above interim arrangement shall start on 11 September 2023, i.e. next Monday. As for interim staying access, I note that, for whatever reasons, the children, especially the elder son did

exhibit some resistance in going to the father's residence. Under these circumstances, the issue of staying access should best be left to be considered after the social investigation report has been obtained.

14. For the way forward, I note that a First Appointment is to be heard on 16 October 2023 at Court No. 50. But in order to have some continuity in the proceeding, both parties agree to keep this case in my court at least for the moment. Since I will be on leave on 16 October 2023, I will re-fix the First Appointment to 20 October 2023 at Court No. 9, 2:30 pm with 1 hour reserved. Therefore, in addition to the above order on interim access, I hereby give the following directions:
 - (1) Both parties summonses are adjourned to 20 October 2023 at Court No. 9 at 2:30 pm with 1 hour reserved.
 - (2) The First Appointment is also re-fixed to that date.
 - (3) A Children Appointment is also fixed to be heard at the same time.
 - (4) The original First Appointment hearing date of 16 October 2023 is vacated.
 - (5) The social investigation report on interim access to be prepared at least 7 days before hearing, i.e. on or before 13 October 2023.
 - (6) Both parties to file and serve Form E at least 28 days before hearing, i.e. on or before 22 September 2023.
 - (7) Both parties to lodge and serve First Appointment Bundle at least 14 days before hearing, i.e. on or before 6 October 2023.
 - (8) Both parties to attend next hearing personally.
 - (9) Costs of today hearing be reserved.
15. As to the calling of Psychologist Report or on the issue of family therapy, I will leave that to the First Appointment and Children Appointment after seeing the Social Investigation Report. After all, I do not think there is sufficient time for such reports to be prepared before the next First Appointment.
16. I thank counsel for their assistance. C. K. Chan District Judge Representation: Mr Jeffrey Li, Barrister-at-law, instructed by Messrs Rita Ku & Ser, solicitors for the Petitioner Ms Anita Yip SC, leading Ms Theresa Chow, Barristers-at-law instructed by Messrs. Withers, solicitors for the Respondent PAGE - PAGE A B C D E F G H I J K L M N O P Q R S T U V A B C D E F G H I J K L M N O P Q R S T U V A B C D E F G H I J K L M N O P Q R S T U V A B C D E F G H I J K L M N O P Q R S T U V gdTT gdRf h:h4 h6;p gdRf h:h4 h4xN h:h4 gde(gd4xN h6;p h4xN h6;p gd4xN PLPLP &`#\$ [Content\_Types].xml \_rels/.rels theme/theme/themeManager.xml K Y, sQ} # theme/theme/theme1.xml \$O}) Xp90 +PHI| PP yu 9xu5 fs+W VF7H q=. 8}d- qyI@j!Q\_ jyV` | PZ+ T ""p < 4V O&x\$ A8>v ;EUC n 8r *~P(5 .}x E /EE\} theme/theme/_rels/ themeManager.xml.rels 5 6? \$Q K(M&\$R(.1 [Content_Types].xmlPK _rels/.relsPK theme/

theme/themeManager.xmlPK theme/theme/theme1.xmlPK theme/theme/_rels/
themeManager.xml.relsPK <?xml version="1.0" encoding="UTF-8" standalone="yes"?>
<a:clrMap xmlns:a="http://schemas.openxmlformats.org/drawingml/2006/main" bg1="lt1"
tx1="dk1" bg2="lt2" tx2="dk2" accent1="accent1" accent2="accent2" accent3="accent3"
accent4="accent4" accent5="accent5" accent6="accent6" hlink="hlink" folHlink="folHlink"/>
pWNJ pWNJ &'L- Draft dc_reporter08 Normal.dotm Windows User Microsoft Office Word
Dell Computer Corp. Draft Title <?xml version="1.0" encoding="UTF-8" standalone="no"?
><b:Sources SelectedStyle="\APA.XSL" StyleName="APA" xmlns:b="http://
schemas.openxmlformats.org/officeDocument/2006/bibliography" xmlns="http://
schemas.openxmlformats.org/officeDocument/2006/bibliography"></b:Sources> <?xml
version="1.0" encoding="UTF-8" standalone="no"?> <ds:datastoreItem ds:itemID="{FE1188C1-
C2C1-46CE-A914-CC54E34DD03F}" xmlns:ds="http://schemas.openxmlformats.org/
officeDocument/2006/customXml"><ds:schemaRefs><ds:schemaRef ds:uri="http://
schemas.openxmlformats.org/officeDocument/2006/bibliography"/></ds:schemaRefs></
ds:datastoreItem> Microsoft Word 97-2003 Document MSWordDoc Word.Document.8

Source & reproduction note

Judgment wording, source notices and original paragraph numbers are retained. Esheria supplies the layout and this PDF's page numbers; these are not the source pagination. This is a research copy, not an official or certified court document. Check quotations, citations and publication restrictions against the original source before relying on it.

ORIGINAL SOURCE https://legalref.judiciary.hk/lrs/common/ju/ju_frame.jsp?DIS=155588

CASE PAGE <https://chat.esheria.ai/case-law/hong-kong/trh-v-kcs-2023-hkfc-182>

Prepared on 29 October 2026 · Esheria