

HONG KONG / JUDGMENT

ZFY v. SCHC

[2022] HKCA 1036**COURT**

Court of Appeal

DECIDED

12 July 2022

CASE / FILE NUMBER

CAMP87/2022

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CAMP 87/2022

[2022] HKCA 1036 IN THE HIGH COURT OF THE HONG KONG SPECIAL ADMINISTRATIVE REGION COURT OF APPEAL MISCELLANEOUS PROCEEDINGS NO. 87 OF 2022 (ON AN INTENDED APPEAL FROM FCMP NO. 97 OF 2020) BETWEEN ZFY Applicant and SCHC Respondent (Child Relocation) Before : Hon Cheung, G Lam and Chow JJA in Court Date of Decision on Costs : 12 July 2022 DECISION ON COSTS Hon Cheung JA (giving the Decision on Costs of the Court) : The Father seeks to vary the costs order made by this Court on 2 June 2022. He asks for no order as to costs of his application. Costs are in the discretion of the Court. The application before us was a renewed application for leave to appeal. The Judge below had already refused to grant leave. Before us, the Father had likewise failed to satisfy the threshold of showing that his appeal has a reasonable prospect of success. The hearing before us had not even reached the stage of a proper appeal which may engage the ‘costs practice’ discussed in *TPL v WYY* formerly known as *WYY* (CACV 47/2014). In any event, that case expressly recognized that the ‘costs practice’ is not a rigid rule. As the proposed challenge was unmeritous, costs should follow the event. We also recognized the financial disparity between the parties. A no costs order will operate harshly against the Mother : see *Keller v Keller and Legal Aid Board* [1995] 1 FLR 259. Accordingly, the application is refused with costs to the Mother. We will summarily assess the costs at \$518,000 which include \$418,000 as fee for two counsel. (Peter Cheung) (Godfrey Lam) (Anderson Chow) Justice of Appeal Justice of Appeal Justice of Appeal Ms Lily Yu, instructed by Nixon Peabody CWL, for the Applicant Ms Alison Choy, instructed by Pansy Leung Tang & Chua, for the Respondent

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Prepared on 29 October 2026 · Esheria