

COURT OF APPEAL FOR ONTARIO

CITATION: Singh v. Seth, 2022 ONCA 837

DATE: 20221129

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Tulloch, Thorburn and George JJ.A.

BETWEEN

Jag Jayden Singh

Applicant (Appellant)

and

Mona Seth

Respondent (Respondent)

Chad D. Rawn, for the appellant

A. Rick Toor, for the respondent

Heard and released orally: November 18, 2022

On appeal from the order of Justice Mario D. Faieta of the Superior Court of Justice, dated February 27, 2022.

REASONS FOR DECISION

[1] The appellant appeals the decision of the motion judge striking his family law claim on the basis that the motion judge committed a number of legal and procedural errors as follows: 1) the appellant was denied procedural fairness when the motion judge denied him an opportunity to cross-examine the respondent on

her affidavit; 2) the motion judge failed to properly evaluate the facts pertaining to the appellant's disclosure; 3) the motion judge failed to allow the appellant to pay his outstanding costs order out of a pool of mutually held funds; and 4) the motion judge erred in effectively granting the respondent an equitable remedy when she came to court with unclean hands.

[2] We would not give effect to any of the appellant's grounds of appeal. As such, the appeal is dismissed.

Background

[3] This case came before the motion judge as a protracted family law dispute in which the issues were that of entitlement and quantum of spousal support, and equalization. Multiple case management conferences and settlement conference meetings were held. All of them focused on the appellant's inadequate disclosure of his financial information and failure to properly exchange financial statements, both of which were necessary in order to deal with the issues of spousal support and equalization.

[4] This was not a case requiring equitable considerations as submitted by counsel for the appellant. From 2013 until February 2022 when the matter was eventually dealt with by the motion judge, the appellant had failed to provide the necessary full financial disclosure as required. Throughout the process of this

family law dispute, the parties appeared numerous times before three different judges. On one occasion, a costs order of \$13,000 was made against the appellant based on court appearances on March 30 and May 25, 2021.

[5] To date, this costs order has not been paid. At the hearing before the motion judge, the motion judge reviewed the history of this matter and concluded the appellant's conduct to date was outrageous. The evidence before the motion judge was that the appellant had a significant amount of equity in his home and could have certainly paid the costs order as required. We agree.

[6] The appellant's complaint about the respondent's lack of disclosure is unfounded based on evidence. We agree with the motion judge's observation that the applicant's submission that the respondent has failed to comply with the disclosure obligations lacks merit, given that he has failed to bring a motion to enforce compliance over the more than two years since the time of Stevenson J.'s order. Furthermore, the respondent's conduct is irrelevant to the appellant's own failure to provide disclosure despite being repeatedly requested and ordered to do so.

[7] The appellant also contends that the motion judge committed a legal error by failing to conduct a sufficient legal analysis pursuant to the test from *Mullin v. Sherlock*, 2018 ONCA 1063. We disagree. The evidence before the

motion judge was clear. For years the appellant had failed to provide the necessary disclosure required to advance litigation. As such we see no error in his findings or his assessment.

Conclusion

[8] In all the circumstances the appeal is dismissed with costs payable to the respondent in the amount of \$4,800 all-inclusive.

[9] This court further orders that all outstanding costs orders can be immediately paid out of the funds that are currently being held, in trust, by counsel for the respondent.

“M. Tulloch J.A.”
“J.A. Thorburn J.A.”
“J. George J.A.”