

CITATION: Singh v. Singh, 2016 ONSC 3347
COURT FILE NO.: FS-13-388450 and CV-13-477962
DATE: 20160519

SUPERIOR COURT OF JUSTICE - ONTARIO

RE: Alka Singh, Applicant

AND:

Rajeev Singh Chandel (a.k.a. Rajeev Kumar Singh) and Shakuntala Singh,
Respondents

RE: Rajeev Singh Chandel, Applicant

AND:

Alka Singh, Respondent

BEFORE: Kiteley J.

COUNSEL: Reesa Heft, for Alka Singh
A. Rick Toor, for Rajeev Singh Chandel (a.k.a. Rajeev Kumar Singh)

HEARD: May 16, 2016

TRIAL MANAGEMENT ENDORSEMENT

[1] Following the TMC on October 7, 2015, I released a detailed endorsement with respect to the trial scheduled to begin the week of October 19, 2015. At that time I estimated the duration of the trial at 10 days. The trial started on Tuesday October 20. On the morning of October 21, I granted the request of Ms. Singh's then counsel Ken Wise & Associates, that he be permitted to withdraw as her counsel and I dismissed Ms. Singh's motion for an order pursuant to rule 4 that articling student Zev Wise (the son of Ken Wise) be permitted to represent her at the trial. [2015 ONSC 6648] I then granted Ms. Singh's motion for an order adjourning the trial.

[2] On October 27, 2015 I heard a motion on behalf of Mr. Singh for an order that \$60,000 be released from funds held in trust pursuant to court order and in an endorsement dated December 24, 2015, I granted that motion. [2015 ONSC 8060]

[3] On January 8, 2016 I held a Trial Management Conference. As indicated in the detailed endorsement dated March 18, 2016, Ms. Heft agreed during the TMC to act for Ms. Singh in the continuation of the trial and I set the date for resumption of the trial as May 16, 2016, which was a date convenient to both counsel. At that time, the estimated duration of the trial was 13-14

days. At paragraphs 20 to 34 of that endorsement, I made detailed orders requiring counsel to take specified steps before the resumption of the trial. The endorsement was lengthy and detailed to specify what was required of counsel, and particularly Ms. Heft as she accepted to act for Ms. Singh at that point in the proceedings.

[4] On May 16, 2016, at the resumption of the trial, Mr. Toor brought a motion for an adjournment because his client was in India and had not been able to retrieve his passport so that he could travel to Canada. For oral reasons given that day, I adjourned the trial to give Mr. Singh a further opportunity to retrieve his passport from the court in India so that he could attend the trial and I directed that the trial resume on May 31, 2016 and continue June 1, 2, 3, 6, 7, 14, 15, 16, 17, 23, 27, 29 and 30 for a total of 14 days.

[5] Before recessing on May 16, 2016, I reviewed with counsel paragraphs 20 to 34 of the endorsement dated March 18, 2016. Based on what had been filed in advance of May 16, 2016, the following was the status:

Paragraph 21 By April 25, 2016, each party shall serve and file a form 13.1 at both of their valuation dates, namely June 1, 2012 (Mr. Singh) and January 1, 2009 (Ms. Singh).

Ms. Singh had served and filed form 13.1 at both dates. No income tax returns or notices of assessment were attached.

Mr. Singh did not comply.

Paragraph 22 Counsel shall collaborate and, by May 13, 2016, they shall file a comparative net family property statement.

Not done.

Paragraph 23 Counsel shall collaborate and, by May 13, 2016, they shall file a list of issues in the family law action and in the civil action which will be the subject of the trial.

Not done.

Paragraph 25 Without leave from me at trial, neither party shall introduce any document that was not included in the briefs each had filed at the commencement of the trial on October 20, 2016.

Counsel for Ms. Singh had served and filed a replacement for Tab 21 of her document brief without seeking leave.

Paragraph 26 Neither party may call any witness at trial not listed above (in paragraphs 12 and 13 of that endorsement).

Having served and filed what was presented as the report of an expert, that evidence is not admissible without the attendance of the expert as a witness. Counsel for Ms. Singh had not sought leave to add that person to the witness list.

Paragraph 28 Subject to paragraph 25, by April 25, 2016, each party shall serve a notice pursuant to s. 35(2) of the *Evidence Act* provided that the notice lists and describes each document and includes the date and the originator. If served by April 25, 2016, the other party shall serve a response no later than May 13, 2016.

Counsel for Ms. Singh served a “Notice of Intention to Tender Business Records and Copies pursuant to s. 35 of the *Evidence Act*”. The Notice lists documents that purport to be business records and then on the fifth page there is a list ostensibly pursuant to s. 55 of the *Evidence Act*. I leave to future submissions whether the documents listed qualify either as business records or copies but in any event, the list does not consistently include the date and the originator. It appears that Mr. Toor did not respond by May 13, 2016.

Paragraph 30 On May 16, 2016 at the resumption of the trial, counsel for Ms. Singh shall provide a brief of authorities containing all authorities on which she relies with respect to the claims in the civil action (listed in paragraph 9 of that endorsement).

Ms. Heft did bring a brief of authorities on May 16 but I declined to receive it in the absence of compliance with paragraph 23 above.

Paragraph 32 At the resumption of trial, counsel for Ms. Singh will provide proof of service of the trial record and the trial date in October 2015 on Shakuntala Singh.

Counsel for Ms. Singh complied.

[6] It is apparent that counsel failed to fully comply with the detailed endorsement dated March 18, 2016.

[7] As I indicated to counsel, it is essential that the trial be finished by Thursday June 30, 2016 so as to prevent adjournment to September. The failure to comply with the March 18 endorsement leaves me with grave concerns about whether this trial will proceed in an orderly fashion particularly given the thousands of documents on which the parties intend to attempt to rely.

[8] Pursuant to rule 1(7.2) of the *Family Law Rules*, in order to promote the primary objective of the rules, the court may make orders giving such directions or imposing such conditions respecting procedural matters as are just. I conclude that pursuant to rule 1(7.2) (j) and (q), it is just that I impose time limits (a) to ensure that the parties and counsel remain

focused on the evidence relevant to the issues to be decided in this trial; and (b) to allow the court to allocate judicial resources appropriately. Assuming that there are 14 days available at 5 hours per court day, the total time available of 70 hours will be divided equally.

ORDER TO GO AS FOLLOWS:

[9] The list of witnesses and estimates of duration of evidence and submissions as reflected in paragraphs 12 – 16 of the endorsement dated March 18, 2016 are subject to the following:

Each party is allocated 35 hours which shall encompass all of the following:

- (a) examination in chief of her/his witnesses
- (b) re-examination of her/his witnesses, if any
- (c) cross-examination of witnesses called by the other party
- (d) reply evidence, if any
- (e) delays in attendance of a witness: if for example counsel runs out of available witnesses at 3:30 and cannot resume until the next morning, one hour (3:30 to 4:30) will be allocated against the time for that party
- (f) opening statements
- (g) closing submissions
- (h) time taken in making objections: if for example, counsel objects to the admissibility of documents or oral evidence, the time taken in making the objection, hearing responding submissions, hearing reply submissions and making the ruling will be allocated to counsel who made the objection
- (i) any other steps taken or not taken that ought reasonably to be allocated to a party.

[10] Counsel shall attend before me on Friday May 20, 2016 at 11:00 a.m. to speak to the following matters:

- (a) the issues raised in paragraph 5 above
- (b) the status of Mr. Singh's efforts to retrieve his passport.

[11] The Trial Co-ordinator will confirm attendance of interpreter for the evidence of the witnesses listed in the endorsement dated March 18, 2016, as a result of fee waiver granted to Ms. Singh.

Kiteley J.

Date: May 19, 2016.