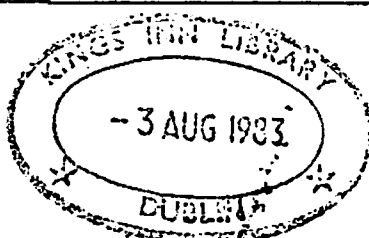


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IN THE MATTER OF KELLY'S CARPETDRONE LTD. (IN LIQUIDATION)



Judgement of Mr. Justice Costello, delivered the 16th May 1983

*Manly P. Doyle
Registrar*

There are two motions before me, the first being an application for an injunction relating to an application under s. 297 of the Companies Act which is to be heard on the 21st June next. An Order is sought against Mr. Eamonn Kelly, Mr. Paul Jackson and Mr. Matthew Kelly. As Mr. Eamonn Kelly's and Mr. Paul Jackson's counsel is not in court I will adjourn the application in so far as it concerns them until 2 o'clock. Mr. Matthew Kelly appeared in person and as against him I will continue the injunction which I have already granted until the trial of this matter. But Mr. Kelly will have liberty to apply before then, if he is so advised to do so. Last week Mr. Kelly appeared in person and applied for liberty, notwithstanding the order I had made, to obtain the sum of £2,000 in the Allied Irish Bank in Capel Street standing in an account in his son's name, so that he could instruct a solicitor. I acceded to his request. Notwithstanding the liberty so given, he has not availed of this money. This order still stands. If he applies on affidavit giving particulars of the legal expenses which he has to meet and the

living
L expenses he faces I will consider whether the injunction should be further lifted in part.

The second motion arises from the manner in which Mr. Matthew Kelly complied with an order made last year in the liquidation proceedings. Mr. Kelly was personally given liberty to occupy the premises at Mary Street. But he declined to comply with the terms of the agreement he entered into with the Liquidator which had been approved by this Court and he was in my view in contempt of Court. He failed to pay the agreed rent and in addition he made very considerable structural alterations without any authority for doing so. In these circumstances the Liquidator is entitled to recover the cost of making good the alterations made to the premises and I have been given an estimate of £13,872-60 for doing so. This estimate has been in Mr. Kelly's possession for some time and beyond making a statement that he considers the amount claimed excessive he has given no detailed evidence to dispute this claim.

In the circumstances I am prepared to accept the estimate as a reasonable one to make good and repair the premises i.e. work rendered necessary by Mr. Kelly's occupation and I will order him

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to pay this sum.

As to a claim that the order be stayed, I will refuse this in the absence of any evidence that the claim is not a proper one.

Notes of judgment against

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