



Neutral Citation Number: [2022] EWCOP 37

Case No: 13609965

COURT OF PROTECTION

Royal Courts of Justice
Strand, London, WC2A 2LL

Date: 23/08/2022

Before:

THE HONOURABLE MR JUSTICE HAYDEN
VICE PRESIDENT OF THE COURT OF PROTECTION

Between:

GOPICHAND PARMANAND HINDUJA

Applicant

- and -

(1) VINOOSRICHAND HINDUJA
(2) SHANUSRICHAND HINDUJA
(3) SRICHAND PARMANAND HINDUJA
(by his Litigation Friend the Official Solicitor)
(4) A PRIVATE HOSPITAL
(5) Bloomberg LP (Intervening)
Andrew Hine (as Deputy for Property and Affairs for
Srichand Parmanand Hinduja)

Respondents

Mr David Rees QC, Mr Sam Chandler (instructed by Withers LLP) for the Applicant
Mr John McKendrick QC and Ms Emma Sutton (instructed by Kingsley Napley LLP) for
the First and Second Respondents

Mr Parishil Patel QC and Alexander Drapkin (instructed by Mackintosh Law) for the
Third Respondent

Ms Claire Watson QC (instructed by DAC Beachcroft) for the Fourth Respondent

Mr Nikki Singla QC (instructed by Taylor Wessing LLP) for the Deputy

Hearing date: 23rd August 2022

Approved Judgment

I direct that pursuant to CPR PD 39A para 6.1 no official shorthand note shall be taken of this Judgment and that copies of this version as handed down may be treated as authentic.

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THE HONOURABLE MR JUSTICE HAYDEN

MR JUSTICE HAYDEN:

1. This morning, I have handed down judgment, in this case, in relation to an application for a Reporting Restrictions Order (RRO) made in the course of both Property and Affairs and health and welfare proceedings in the Court of Protection. The draft judgment was released to the party's lawyers on the 29th July 2022. I am told by Ms Watson QC that her client, the private hospital, was omitted from the list of recipients, though this has now been rectified. The contents of the judgment were to be discussed with the lay clients but the judgment itself was not to be circulated until approved.
2. The protected person (P) in these proceedings is Srichand Hinduja (SP). In my judgment [2022] EWCOP 36, I analysed how the parties have failed, consistently, to appreciate that SP's best interests have to be kept in unswerving focus in this process. I came to the clear conclusion that the family had not been able to achieve this largely because they had been repeatedly distracted by parallel commercial litigation in the Chancery Division in which their own litigation interests became their primary objective.
3. Yesterday afternoon, I was met, as has too frequently occurred in these proceedings, with a deluge of documents for today's hearing, ranging from Property and Affairs issues to important health and welfare considerations. Some of the issues between the parties have been quite astonishingly trivial, others of real importance. The Official Solicitor found herself similarly overwhelmed with documentation, and had once again, to ask for further time to consider documents in order to identify SP's best interests and formulate a position. It requires to be said that yet again SP's team and therefore, SP himself, had been placed at a disadvantage by his own family members conduct of the litigation.
4. In my substantive judgment, I set out why I agreed with the Official Solicitor that open reporting of these proceedings was likely to provide what she described as a "*protective layer for [SP]*". She considered that the parties intense focus on their own issues had led to SP repeatedly becoming marginalised in the Court of Protection proceedings. She had been alert to this sometime before I began fully to appreciate it. It remains the case that SP Hinduja, continues to be in hospital although all the experts and treating clinicians agree that it has not been the right place for him now for some time. What he requires is a home environment where he can be properly looked after with peace, quiet, dignity, and with his family around him.
5. Despite the funds available to achieve this, it has still not been done. These arrangements are made regularly with a paucity of resources and limited funding, on a daily basis, by many families involved in Court of Protection proceedings. Notwithstanding my repeated and strongly expressed comments to the Hinduja family and the extraordinary scope and reach of their financial capacity, there is still no identified accommodation for him and no nursing plan. Because it is so contrary to his interests for him to spend the remainder of his days in a hospital room with his privacy and peace inevitably compromised, I have been driven to consider a placement in a public nursing home. I did not expect for one moment that this would not have been achieved by today's hearing. I have a battery of highly experienced lawyers before me, a range of doctors and healthcare professionals and abundance of resources. SP's vulnerability despite all these protections, is both truly alarming and profoundly sad. Moreover, it is in my judgement, a legitimate matter of public

interest. A fact which further reinforces the Official Solicitor's analysis and my endorsement of it in the substantive judgment.

6. I was not surprised to discover that Gopichand Hinduja is planning to appeal. This was contemplated during the course of exchanges with Counsel at the RRO hearing. Mr Rees QC, counsel on his behalf, had a secondary position at the RRO hearing, namely, that I should preserve the anonymity of these proceedings until SP's death. I rejected that point for the reasons set out in the judgment. There is, of course, a real risk that the process of appeal may achieve that objective by default. Given that I consider transparency in these proceedings is intrinsic and not inimical to SP's welfare, that would be a dispiriting outcome.
7. The contemplated appeal, I am told, is not yet sufficiently choate for Mr Rees to summarise it or indeed, to identify the headings. He does not wish to make the application for permission to appeal today, he tells me, until his client has had the opportunity to speak with his son and adviser, armed with a copy of the judgment itself.
8. Mr Rees contemplated a 21 day stay of the order in order to marshal his permission application and, as I have said, so that his lay client could speak with his son. I have found Gopichand Hinduja, on the two occasions that I have heard from him, to be an intelligent articulate man, very well used to being in charge and taking decisions. He is the head of this family. I should also add that I consider that he possesses great charm and spirituality. The distress concerning his brother is deep and profound. His grief is palpable, and he believes in and prays for a miracle. Nonetheless, I regret to say that I found the reasoning of the need for delay to consult with his son, to be entirely unconvincing. The RRO judgment, it must be said, is a relatively short one (60 paragraphs). The judgment does not raise any particularly complex or novel point of law, nor is its conclusion, I hope, difficult to absorb.
9. Mr Rees seeks a stay to prepare and burnish his grounds for appeal before he makes his application. The time contemplated however, is utterly irreconcilable with SP Hinduja's best interests. Mr Rees makes the point that were I to dismiss his application for a stay today, I would effectively render his client's appeal nugatory and compromise his Article 6 rights. Mr Rees and his client have known the contents of my judgment and the detail of my reasoning for a considerable time. I do not consider that Mr Rees can make this submission good. However, I am prepared, pursuant to the Court of Protection case management rules, see r.3.1(2)(a) et seq, to grant a stay until 10:30am on Thursday 25th August 2022 and to abridge time to apply for permission to appeal to that date.