



[2020] EWHC 1539 (Ch)

Case No: BL-2019-000244

**IN THE HIGH COURT OF JUSTICE**  
**BUSINESS AND PROPERTY COURTS OF ENGLAND AND WALES**  
**BUSINESS LIST (ChD)**

The Rolls Building  
7 Rolls Buildings  
Fetter Lane  
London EC4A 1NL

Wednesday, 3 June 2020

BEFORE:

**MR JUSTICE MANN**

BETWEEN:

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**(1) YUZU HAIR AND BEAUTY LIMITED**  
**(2) YUKIKO DENNIS**

Claimants

- and -

**AKILAN SELVATHIRAVIAM**

Defendant

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**MR R BROWN** (instructed by Edwards Duthie) appeared on behalf of the Claimant

The Respondent did not attend and was not represented

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**APPROVED JUDGMENT**  
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1. MR JUSTICE MANN: This is the adjourned hearing of this committal application. I have previously determined that Mr Selvathiraviam, the respondent to the application, has been guilty, and clearly guilty, of flagrant breaches of a court order. He has made no attempt to comply with the court order to date, even faced with the present situation. On the previous occasion I indicated I would have been minded to have a complete hearing determining whether there was a contempt and dealing with the sanction. However, at the request of Mr Rory Brown for the applicant, I adjourned the question of sentence to a further hearing, which is the hearing today.
  
2. The order that I made on that occasion, and my judgment which clearly states what I had found against Mr Selvathiraviam and clearly states the risk that he would be sent to prison, were provided to Mr Selvathiraviam and he has not responded in any way until yesterday. Yesterday, Mr Selvathiraviam made an unissued application for an adjournment for 14 days on the footing that his wife was self-isolating and he therefore had to self-isolate. I contemplated the prospect of a video hearing yesterday (something which I did not think was going to be appropriate for a final disposition of this matter when I delivered my first judgment) but decided it would not be appropriate. I therefore gave a clear direction which was emailed to Mr Selvathiraviam and to the applicant, indicating that I did not accede to his application. The other (and obviously very important) reason I did not accede to his application was that I found that the assertion that his wife had COVID-19 symptoms was "devoid of any credibility". I set out further reasons in my ruling yesterday, which is contained in an email which must be put on the court file.
  
3. That email was sent at 12.15 yesterday. It responded to Mr Selvathiraviam's application which came in yesterday morning at 10.36 am. Yesterday's application and today's application follow the pattern of Mr Selvathiraviam in this litigation, which is that when he responds at all, he responds at the last minute. In those circumstances, and for the reasons given in my ruling yesterday, I refused Mr Selvathiraviam's application for an adjournment. He will have received that indication by email at lunchtime yesterday. He must have received it because the application to which I am about to refer follows from it.

4. This morning, the hearing having been set up in the Royal Courts of Justice, Mr Selvathiraviam made a further application by email in an unissued application notice. This application was made by an email timed at 8.41 am. His application is again for a 14-day adjournment because he claims to be following the directions which follow, he says, from the fact that his wife is self-isolating because she has (he claims) COVID-19 symptoms. He makes his application apparently on the footing that he has to follow the public guidance that has been given. He adds no new material to his application other than a professed willingness to participate in a video hearing and the fact that his wife is not only self-isolating but is also pregnant.
5. I shall refuse Mr Selvathiraviam's application. Yesterday, I ruled that his averment that his wife was suffering from COVID-19 symptoms was devoid of any credibility. I made that judgment against the background of this matter which shows that Mr Selvathiraviam will not attend court and will do whatever he thinks is necessary, particularly in terms of invoking ill health in order to avoid attendance. The history is set out in my first judgment. The wife's self-certification of her symptoms was dated yesterday. Mr Selvathiraviam's application of yesterday was in accordance with a pattern of applying the day before the hearing, when he may well calculate it is too late for anybody to do much checking or to do anything other than accede to the application. He has now been disappointed three times in that respect by me.
6. He then replies at the very, very last minute this morning, having taken no steps between yesterday, when he received the ruling, and this morning to make a further application or to bolster it in any fashion whatsoever. I consider that his application this morning is all part of his pattern of making last-minute applications for an adjournment on an inadequate basis, although he has got away with it in the past at some hearings. Yesterday, I ruled that his wife's alleged illness in the circumstances was devoid of credibility. Nothing has changed to affect that judgment. It remains devoid of credibility and it would be inconsistent were I to give it a degree of credibility today that I did not give it yesterday. He has not rendered it any more credible.
7. In those circumstances, the very foundation of this application fails. I consider this is likely to be another ploy of Mr Selvathiraviam to avoid having to face up to this

application. I note that Mr Selvathiraviam offers to make himself available with a video link. I do not know whether a video link would in any way be successful. For a person who is apparently determined to avoid hearings, it is all too easy for a video link to turn out to be unsuccessful for reasons which lie at the party's end. In any event, this is a serious hearing and Mr Selvathiraviam ought to have taken some steps to deal with it before now. It is to my eyes very surprising that, between the date of my first judgment and today, he has not responded in any way to my first judgment. I understand he has not been in touch at all with the applicants and, other than his applications, he has not been in touch with the court. I consider today's application to be part of Mr Selvathiraviam basically totalling ignoring these proceedings and I shall refuse it.

**(After further submissions)**

8. This is the occasion of my considering what sanction should be imposed on Mr Akilan Selvathiraviam in respect of breaches of a court order and therefore of contempt as found in my judgment delivered on 13 May 2020. In my previous judgment, I found that he had failed to comply with an order for disclosure of assets made by Falk J as part of a freezing order on 30 January 2019. In that order she had provided:

"9(1) Unless paragraph (2) applies, the respondent must within 48 hours of service of this order and to the best of his ability inform the applicant's solicitors of all his assets worldwide exceeding £1,000 in value whether in his own name or not and whether solely or jointly owned, giving the value, location and details of all such assets.

(2) If the provision of any of this information is likely to incriminate the respondent, he may be entitled to refuse to provide it, but it is recommended to take legal advice before refusing to provide the information. Wrongful refusal to provide the information is contempt of court and may render the respondent liable to be imprisoned, fined or have his assets seized.

10. Within five working days after being served with this order, the respondent must swear and serve on the applicant's solicitors an affidavit setting out the above information."

9. I have determined that Mr Selvathiraviam was properly served with that order and that he did not comply at the end of the period in question and he has not complied at all since then. He has not attempted to comply in the course of these committal proceedings. No explanation has been given, no apology has been provided and no assurances as to compliance have been given. Mr Selvathiraviam seems simply to have ignored the order. He has essentially not engaged with these committal proceedings save for one attendance at an adjourned hearing, as described in my earlier judgment. He has been given the opportunity to obtain legal representation for the purposes of the committal hearing but does not seem to have availed himself of that opportunity. He was given a clear steer by Judge Klein on a previous occasion as to how he might be able to avoid the full consequences of this committal application and still he did not do anything. He has not attended the hearing today and, in my judgment, has not provided a proper reason for his non-attendance. He has made two applications based on his allegation that he needs to self-isolate because his wife is now self-isolating because of COVID-19. I have found that his averments to that effect against the background of this case lack all credibility. I have also decided that it would not be appropriate in the circumstances to have a video hearing for reasons that I gave in a short direction yesterday.
10. I consider the breach of the court order in this case to be very serious. The provision for disclosure of assets is an essential part of the freezing order mechanism and cannot simply be ignored by a defendant. Its importance in this respect has been emphasised by Jackson LJ in *JSC BTA Bank v Solodchenko (No 2)* [2012] 1 WLR 350 [55]. The court requires that that part of the order be complied with so that the freezing order can be policed. The seriousness is magnified in this case by the period of time over which the order has not been complied with and over which it has apparently been completely ignored by Mr Selvathiraviam. His conduct in this case makes the breach contumacious and flagrant.
11. In my previous judgment I indicated that Mr Selvathiraviam faced the risk of a substantial prison sentence. Despite that, he has still not complied or tried to comply with the order. I consider that this breach as a whole makes this a contempt which is very serious and at the upper end of seriousness. It is appropriate to mark it with the imposition of a prison sentence. The maximum prison sentence which I can impose is

two years. In the light of Mr Selvathiraviam's conduct and his apparent disdain for the entire proceedings, I shall impose a prison sentence of 18 months. However, I propose to suspend the execution of that order to give Mr Selvathiraviam an opportunity to comply with the order and, so far as he can, purge his contempt. I propose to make an order which suspends execution of the order for a period of 21 days. I shall not attach a condition to that; I shall merely suspend it for 21 days. I will, however, indicate that the purpose of that is to enable Mr Selvathiraviam to comply if he wishes to do so and to seek to purge his contempt if he seeks to do that. The reason that I give him as long as 21 days is that that gives him a period, effectively, of a week in substance to comply with the order and a further period of time in order to get together material if he wishes to purge his contempt and make his application.

12. Mr Selvathiraviam should understand that even if he provides the information now, he will not necessarily be able to escape a prison sentence, but he will be entitled to urge upon the court in a purging application that the prison sentence should be removed or at least reduced. I consider that 21 days is an appropriate time to enable him to do that. As I have indicated, it will not be a condition of the order that it will be suspended or further suspended if he provides the information; the suspension is to give him an opportunity to provide the information. At the end of 21 days, if nothing else has happened, the order will be executed and he will be taken to prison to serve his sentence.
13. The burden is now very much on Mr Selvathiraviam to avoid some or all of the consequences of his conduct. I wish to make it clear again, in the interests of Mr Selvathiraviam, that it does not follow that he will be able to escape the whole or any part of the prison sentence if he purges his contempt, but he should have the opportunity of doing so and convincing me in due course that he should not be sent to prison for the whole of the period in question or at least for part of it.
14. In summary, therefore, I sentence Mr Akilan Selvathiraviam to a term of 18 months' imprisonment for breaches of paragraphs 9 and 10 of the order of Falk J made in these proceedings on 30 January 2019 in that he did not make and has not made the disclosure required by those paragraphs within the time stated or at all. Execution of this order will be suspended for 21 days.

15. I make one further order in order to assist Mr Selvathiraviam. I propose to vary Falk J's order to the extent that, in lieu of the affidavit provided for in paragraph 10 of that order, Mr Selvathiraviam may instead provide a statement of truth in accordance with Practice Direction 22 at paragraph 2.1. That is done in order to avoid his having to find a solicitor and to swear an affidavit in these present times, which I acknowledge might be a little more difficult for him than it would be normally. To that extent, therefore, I assist Mr Selvathiraviam and my order will contain a provision to that effect and, in order to guide Mr Selvathiraviam, it will contain an appendix which sets out quite clearly the form of statement of truth that he has to append to the document. I shall invite Mr Brown to draw up an appropriate order containing the relevant material.
  
16. I should add that I do not consider that any of the other possible sanctions open to me, sequestration and fine, would even begin to meet the seriousness of the conduct of Mr Selvathiraviam in this case.



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