

Family Law Reports/2005/Volume 2 /RE S (CHILD: FINANCIAL PROVISION) - [2005] 2 FLR 94

[2005] 2 FLR 94

## RE S (CHILD: FINANCIAL PROVISION)

[2004] EWCA Civ 1685

### COURT OF APPEAL

THORPE, WALL LJJ AND BLACK J

9 NOVEMBER 2004

*Financial relief - Child - Benefit of child - Costs associated with parental contact and pursuit of residence proceedings - Child living abroad - Whether order could be made against parent living abroad*

The parents, both Sudanese, married in the Sudan but moved to England where the father was already resident. The father purchased a property in his sole name which became the family home. There was one child. After the breakdown of the marriage, all members of the family moved a great deal between the UK and the Sudan. The couple were divorced under Sudanese law, and the mother promptly remarried in the Sudan. Later that year the father unlawfully retained the child following a contact visit and subsequently obtained an order from a Sudanese Sharia court confirming him as the parent responsible for the child's care. The mother began proceedings in England, seeking an order for the child's return to the jurisdiction in wardship; she also appealed the Sudanese judgment, eventually obtaining a judgment from the Supreme Court of Sudan ordering that the child be returned to her. The English court granted the mother a declaration that the child was and remained habitually resident in England, but refused her application for peremptory return of the child, on the basis that the courts of the Sudan were seised of all the issues and competent to determine them. The mother then obtained, under Sch 1, para 1 to the Children Act 1989 (concerning payments to, or for the benefit of, a child), a sequestration order over the former matrimonial home, which was the father's only capital asset, on the basis that she needed funds to enable her to travel to the Sudan for contact with the child, and to continue the legal process. The father successfully argued that the court had no jurisdiction to entertain such an application, because (a) the order sought was for the mother's, rather than the child's, benefit, and (b) under Sch 1, para 14 an order could not be made against a parent resident abroad when the child was also living abroad.

**Held** - allowing the appeal and remitting the case to the Family Division -

(1) The term 'for the benefit of the child' in Sch 1 to the Children Act 1989 was to be given a wide construction. The mother's objectives in seeking a discretionary award, which included travelling to the Sudan (a) to see her child and (b) to pursue the rights that derived from the decision of the Supreme Court of Sudan, might well be considered to be for the benefit of the child as well as for the benefit of the mother. *W v J (Child: Variation of Financial Provision)* [2003] EWHC 2457 (Fam) distinguished (see paras [19], [20]).

(2) Schedule 1, para 14 to the Children Act 1989 provided a useful definition of the court's power to order a person with financial responsibility towards a child in this jurisdiction to make a payment, notwithstanding that the primary carer and the child were living elsewhere; it could not sensibly be construed to prevent an application by a parent left within the jurisdiction after the departure of the other parent and child (see para [21]).

(3) In circumstances in which the Sudanese court had ruled that the child should be returned to the mother, inferentially in the Sudan, while the English court had ruled that the child remained habitually resident in England, the mother was entitled at least to a discretionary appraisal of whether or not a financial order should be made (see paras [23], [24]).

**Per curiam:** it was a curious fact that there was no definition anywhere within the statute of the extent of the court's jurisdiction in relation to children who were not

*[2005] 2 FLR 94 at 95*

present or habitually resident within the jurisdiction and that absence of definition had given rise to difficulties in the past in other contexts. In relation to the Member States of Europe, clear jurisdictional rules would come into force on 1 March 2005 with the advent of the revised Council Regulation (EC) (No 2201/2003) of 27 November 2003 Concerning Jurisdiction and the Recognition and Enforcement of Judgments in Matrimonial Matters and in Matters of Parental Responsibility repealing Council Regulation (EC) (No 1347/2000) (Brussels IIA) (see para [25]).

### **Statutory provisions considered**

Guardianship Act 1971, s 15A

Family Law Act 1986

Family Law Reform Act 1987

Children Act 1989, s 15, Sch 1

Family Proceedings Rules 1991 (SI 1991/1247)

Hague Convention on the Civil Aspects of International Child Abduction 1980

Council Regulation (EC) (No 2201/2003) of 27 November 2003 Concerning Jurisdiction and the Recognition and Enforcement of Judgments in Matrimonial Matters and in Matters of Parental Responsibility repealing Council Regulation (EC) (No 1347/2000) (Brussels IIA)

### **Cases referred to in judgment**

Halsted's Will Trusts, Re; Halsted v Halsted [1937] 2 All ER 570, ChD

W v J (Child: Variation of Financial Provision) [2003] EWHC 2457 (Fam), [2004] 2 FLR 300, FD

*Timothy Scott QC and Indira Ramsahoye for the petitioner*

*Catherine Wood for the respondent*

**THORPE LJ**

**[1]** On 23 July 2004 Bracewell J delivered judgment declining jurisdiction to entertain an application brought by the mother under s 15 of, and Sch 1 to, the Children Act 1989. The judge also refused permission to appeal, resulting in an application to this court received on 6 August. On 18 October the papers were referred to me and on the 21st I ordered an oral hearing on notice with appeal to follow if permission granted. Mr Timothy Scott QC has appeared today with Miss Ramsahoye to argue the case and it was perfectly apparent that Mr Scott had serious and substantial points to raise. So we have effectively treated this as the hearing of an appeal. The contrary argument was settled in writing by Mr Robin Barda, who appeared below, but owing to his having been detained unexpectedly in another case in the building, Miss Wood has appeared today to add to his written argument.

**[2]** It is probably sensible to start with a brief summary of the history of what is a highly unusual case. The parents are both Sudanese. The father is in his mid forties, the mother in her mid twenties. They married in the Sudan in December 1996. The mother was at that time resident in the Sudan. The father was primarily resident in this jurisdiction but visiting at intervals during 1996, during which he developed his relationship with the mother. As soon as they married the father brought the mother to this country. In March 1997 he purchased in his sole name a property in South London, 44 Sherwood Gardens, which then became the family home. Their only child, M, was born on 13 April 1998. Sadly, the marriage broke down in about May 2001. Thereafter there was a long period of insecurity and repeated movement

*[2005] 2 FLR 94 at 96*

between this jurisdiction and the Sudan, which culminated in the grant of a divorce certificate according to Sudanese law, dated 25 April 2001. The mother took advantage of her freedom by remarrying on 22 June 2001 in Khartoum. That precipitate remarriage deprived her of rights which she would otherwise have had to bring financial applications in this jurisdiction against the target of the final matrimonial home.

**[3]** The milestone in the subsequent history is the father's unlawful retention of M at the conclusion of a period of contact on 7 September 2001. That unlawful retention was in the course of proceedings which the father had commenced in the East Khartoum Sharia Court on 3 July 2001. Subsequently, the father obtained an order from that court, which seemed to confirm him as the parent responsible for M's care. That order was upheld by the Khartoum Court of Appeal when it dismissed the mother's appeal against the prior judgment of the Sharia court. The order of the Court of Appeal in Khartoum was dated 2 June 2002.

**[4]** The mother commenced proceedings in this jurisdiction on 18 December 2002 seeking an order for M's direct return to this jurisdiction in wardship. Whilst that case was proceeding through its interlocutory stages, the mother achieved a significant success when the Supreme Court of Sudan reversed the decision of the Court of Appeal in Khartoum by an order of 29 September 2003. The conclusion of the order of the Supreme Court states:

'... the court of enforcement is to return the child to his mother. We order the party contested against to pay the fees and expenses of the contestation.'

**[5]** In this jurisdiction she obtained a partial success at the trial of her originating application by Kirkwood J on 23 January 2004. He found and declared that M was and remains habitually resident in England and Wales. However, he refused her application for an order for peremptory return in the exercise of his discretion, holding that the courts of the Sudan were well seised of all the issues in the case and were plainly competent to determine any outstanding issues.

**[6]** The mother's reaction was to issue on 6 February 2004 an application for an order under Sch 1 to the Children Act 1989. Within those proceedings she obtained orders against the property, Sherwood Gardens, effectively preventing the father from gaining access to his capital. I believe the form of the order was sequestration. It is unnecessary for the purposes of this judgment to record the subsequent developments. The order of Bracewell J freed Sherwood Gardens from restraint unless the mother made further applications for extension prior to 6 August. I do not believe that any application for extension was made either to Bracewell J or to this court, but it is agreed that a subsequent order made by Wood J has had the effect of continuing the restriction on the father's only capital asset until the determination of this appeal.

**[7]** Within the application brought under the Children Act 1989 the father took the preliminary point that the court had no jurisdiction to entertain the application. Before Bracewell J the preliminary point as to jurisdiction was argued out on 23 July and decided, in a relatively brief extempore judgment, in the father's favour.

*[2005] 2 FLR 94 at 97*

**[8]** There were two distinct points of construction relied upon by the father in support of his general submission that the court had no jurisdiction to entertain an application under para 1 of Sch 1. The first was that any order that the mother sought was essentially for her benefit and not for the benefit of M. The second point of construction focused on para 14. It was submitted on the father's behalf that the court's jurisdiction to entertain an application in relation to a child living abroad was exclusively defined by para 14. Since manifestly the mother could not bring herself within para 14 it therefore followed that she was excluded from the court's jurisdiction.

**[9]** Before coming to record the conclusions of Bracewell J, it is perhaps sensible to set out the statutory material. Paragraph 1 of Sch 1 reads:

'(1) On an application made by a parent or guardian of a child, or by any person in whose favour a residence order is in force with respect to a child, the court may--

(a) in the case of an application to the High Court or a county court, make one or more of the orders mentioned in sub-paragraph (2);

(b) in the case of an application to a magistrates' court, make one or both of the orders mentioned in paragraphs (a) and (c) of that sub-paragraph.

(2) The orders referred to in sub-paragraph (1) are--

(a) an order requiring either or both parents of a child--

(i) to make to the applicant for the benefit of the child; or

(ii) to make to the child himself,

such periodical payments, for such term, as may be specified in the order;

...

(c) an order requiring either or both parents of a child--

(i) to pay to the applicant for the benefit of the child; or

(ii) to pay to the child himself,

such lump sum as may be so specified.'

**[10]** Mr Scott, on behalf of the mother, makes plain that the relief sought was both for a lump sum payment under para 1(2)(c) and also for periodical payments under subpara (a). The mother's preference was for a lump sum order under para (c).**[11]** Paragraph 14 of the Schedule states:

'Financial provision for a child resident in country outside England and Wales

14(1) Where one parent of a child lives in England and Wales and the child lives outside England and Wales with--

- (a) another parent of his;
- (b) a guardian of his; or
- (c) a person in whose favour a residence order is in force with respect to the child,

*[2005] 2 FLR 94 at 98*

the court shall have power, on an application made by any of the persons mentioned in paragraphs (a) to (c), to make one or both of the orders mentioned in paragraph 1(2)(a) and (b) against the parent living in England and Wales.

(2) Any reference in this Act to the powers of the court under paragraph 1(2) or to an order made under paragraph 1(2) shall include a reference to the powers which the court has by virtue of sub-paragraph (1) or (as the case may be) to an order made by virtue of sub-paragraph (1).'

**[12]** Bracewell J dealt first with the construction of the words 'for the benefit of the child', crucial to both subss (a) and (c). She said:

'The way in which the mother puts her case is that any award would be for the benefit of the child because the money would be used to enable the mother to travel to the Sudan to see her child and to fight in order to seek the return and the enforcement of a judgment which was given in the Sudanese court in her favour on September 29, 2003. That, however, appears to me not to relate to the sort of financial provision which was envisaged in Sch 1. On the contrary, it is giving sums of money to the mother to enable her to do something which would be for the benefit of the child. It is not money which is geared to the maintenance and upbringing of the child himself.'

**[13]** In relation to the father's second objection, Bracewell J set out the terms of para 14 in full, and went on to say in, paras [8] and [9] of her judgment, that the effect of the paragraph was to restrict the court's power to making orders against a parent living in England and Wales when the child lives outside the jurisdiction either with a parent or guardian. The judge continued:

'The child is currently living with [the] aunt with the consent of the father, but the problem which arises is that this statutory provision envisages the payer being resident in England and Wales and not resident outside this jurisdiction. Therefore, that provision cannot apply to the benefit of M in this application.'

**[14]** Mr Scott has prepared his argument carefully in a skeleton which examines the legislative history and demonstrates how the Family Law Act 1986 inserted into the Guardianship Act 1971 a new s 15A. He has also drawn attention to subsequent amendments effected by the Family Law Reform Act 1987. He says that the legislative history is confused and confusing, and in that I have no doubt he is right. But I do not myself derive any particular guidance from an examination of that legislative history. The fact is that s 15A had broadly the same intention and effect as para 14 of the current legislation; and it does not seem to me to

answer the root question: what is the extent of the court's jurisdiction where it is not the potential payer but the potential payee who remains within the jurisdiction of the court?

**[15]** Mr Scott, in presenting his submissions on the first point of construction, tells us that his research finds no authority that has considered the statutory phrase; all he relies upon is a decision in Chancery in relation to

[2005] 2 FLR 94 at 99

will trusts, in *Re Halsted's Will Trusts; Halsted v Halsted* [1937] 2 All ER 570. In that case Farwell J held that the expression 'or otherwise for his benefit or advancement in life' should be given a broad construction to encompass the scheme that the trustees favoured. He said in the course of his judgment:

'Having regard to the very wide terms in which the word "benefit" has been construed in the past, I consider that the trustees may, under this power, raise a part not exceeding one half, and have the part so raised settled for the benefit of the plaintiff, his wife, and his children.'

**[16]** In relation to the second point of construction, Mr Scott of course accepts that his client cannot be brought anywhere near the provision of para 14, but he sensibly submits that it is simply irrelevant to any consideration of the court's jurisdiction in relation to cases in which it is the potential recipient who is within the jurisdiction and the potential payer who is outside the jurisdiction. He draws attention to the statement of the rule in *Dicey and Morris on the Conflict of Laws* (Sweet and Maxwell, 13th edn, 2000), p 847, where the author writes:

'Rule 95(1) Subject to clause (3) of this Rule, the English courts have jurisdiction to make an order for payments for the benefit of a child under the Children Act 1989 if the respondent is served with process in England or elsewhere.'

The author also points out that under the Family Proceedings Rules 1991 an application under Sch 1 to the Children Act 1989 may be served out of the jurisdiction without the leave of the court.

**[17]** Miss Wood, in her contrary argument upon the first point of construction, relies on the reasoning of the judge below. She reinforces that submission by citing the recently reported decision of Bennett J in *W v J (Child: Variation of Financial Provision)* [2003] EWHC 2457 (Fam), [2004] 2 FLR 300. The headnote states what she says is a general proposition to this effect:

'The court had no jurisdiction under s 15 of and Sch 1 to the Children Act 1989 to order one parent to make a payment to the other parent to cover the latter's legal fees in relation to litigation over their child or children. The words "for the benefit of the child" in para 1(2(a) of Sch 1 were not wide enough to include moneys payable by one parent for the other's legal fees. A parent seeking the upfront payment of his or her legal fees against the other parent was seeking a benefit for him/herself and not for the child.'

**[18]** In relation to the second point of construction, Miss Wood simply submits that para 14 has the design and effect of specifying the circumstances in which the court may exercise its jurisdiction in relation to any child who is living abroad. She stresses that that is the language of para 14; it contemplates that physical state of absence and, once that physical state of absence is established, then the court's jurisdiction is limited to making orders against a

[2005] 2 FLR 94 at 100

payer who remains in the jurisdiction and does not extend to an order for the benefit of a payee within the jurisdiction.

**[19]** My conclusions on these two points of construction are as follows. I side with Mr Scott in holding that

the term 'for the benefit of the child' in para 1(2) of Sch 1 is to be given a wide construction. Here, the child has suffered great disbenefit in the loss of the company and support of his mother since September 2001. Part of the mother's objectives in seeking a discretionary award is to travel to the Sudan in order to see her child, and at the same time to pursue the rights that derive from the order of the Supreme Court. It seems to me that a discretionary appraisal might well conclude that those objectives were for the benefit of M as well as for the benefit of the appellant. I would not have held, as did Bracewell J, that the language of para 1(2) of the Schedule was so clear as to entitle the father to succeed on the preliminary point. In so concluding, I am not persuaded that the decision of Bennett J in *W v J (Child: Variation of Financial Provision)* [2003] EWHC 2457 (Fam), [2004] 2 FLR 300 has, or was intended to have, the wide application that Miss Wood claims. The nearest thing that he approaches to generalisation is in paras [46] and [47] of his judgment, where he says:

'In my judgment counsel ... is correct in her submission that a parent seeking the upfront payment of his or her legal fees against the other parent is seeking a benefit for him/herself and not for the child.

... The money is spent on the mother's lawyers, who advance her case as to what she perceives to be in T's best interests.'

**[20]** Those statements are unimpeachable in such an extreme case. The application before him was an application for the increase of the father's obligation from an annual sum of £32,400 to an annual sum of £178,400, since the mother sought the court's validation of her intention to spend £146,000 with her solicitors over a 9-month period between July 2003 and March 2004. No wonder that such an application attracted Bennett J's conclusion that it was all designed to benefit the mother's taste for litigation and was not for the benefit of her child. I do not read his observations in paras [46] and [47] as going much, if any, beyond the facts of the case then before him.

**[21]** I now turn to the second point of construction. I have reached the clear conclusion that Miss Wood's presentation is altogether too restrictive to be acceptable. It is, in my judgment, relatively clear that the draftsman's purpose in inserting para 14 into the Schedule was to replicate and continue the regime established by the 1986 amendment to the Guardianship Act 1971. It is a useful definition of the court's power to order a person with a financial responsibility towards a child in this jurisdiction to make payment, notwithstanding that the primary carer and the child are living elsewhere. It cannot sensibly be construed to prevent an application by the parent who is left within the jurisdiction after the departure of the other parent and the child.

**[22]** I reach that conclusion by a series of hypothetical steps. Let me first take the case of a mother and primary carer whose child is resident with her in London whilst the father, for his own convenience or for whatever reason, prefers to live, let us say, in a European capital such as Paris. Manifestly the court has power to order the absent parent in Paris to make financial provision for the benefit of the child under the terms of para 1 of the Schedule. Let us

*[2005] 2 FLR 94 at 101*

assume - stage 2 in the development - that the child is temporarily absent from the jurisdiction, maybe because the parents have agreed that the child should attend a boarding school in Switzerland; that fact would not, in my judgment, deprive the court of jurisdiction to make or to continue orders for periodical payments. Let me move to the third hypothetical stage. Let us assume that the father living in some other jurisdiction wrongfully removes the child from this jurisdiction, or wrongfully retains the child at the conclusion of a period of contact. The court's jurisdiction to make orders for financial provision for the benefit of the child payable to the mother cannot thereby be eclipsed. It is important that the mother seeking redress for the wrongful act should have access to the jurisdiction of the court and a discretionary appraisal of her entitlement.

**[23]** The facts of this case are highly unusual, and the important foundations upon which the mother's case must rest are first, the judgment of the Supreme Court of the Sudan and, secondly, the judgment of Kirkwood J to the effect that M is and remains habitually resident in this jurisdiction. The mother's future aspirations must remain uncertain in achievement. I do not understand the judgment of the Supreme Court in the Sudan to go beyond an order that the child be returned to her, inferentially in the Sudan. This is not a case in which the father wrongfully removed or retained the child across jurisdictional borders. At the time of his wrongful retention both parties were resident in the Sudan. Nonetheless, the mother has the clear ruling, unappealed by the father, that M remains habitually resident in this jurisdiction.

**[24]** In those circumstances, I conclude that the mother is entitled at least to a discretionary appraisal of whether or not a financial order should be made.

**[25]** It seems to me that, given the highly unusual circumstances of this case and given the relatively narrow range of debate, it would be unwise for this court today to embark upon any wider determination of the extent of the court's jurisdiction. It is a curious fact that there is no definition anywhere within the statute of the extent of the court's jurisdiction in relation to children who are not present or habitually resident within the jurisdiction and that absence of definition has given rise to difficulties in the past in other contexts. It is also manifest that in relation to the Member States of Europe clear jurisdictional rules will come into force on 1 March 2005 with the advent of the revised Council Regulation (EC) (No 2201/2003) of 27 November 2003 Concerning Jurisdiction and the Recognition and Enforcement of Judgments in Matrimonial Matters and in Matters of Parental Responsibility repealing Council Regulation (EC) (No 1347/2000) (Brussels IIA).

**[26]** However for the purposes of the case before us today, and in recognition of its highly exceptional facts and circumstances, I would respectfully differ from the position adopted by Bracewell J. I would reject the father's attempt to arrest the application on the threshold. I would remit the case to the Family Division for a fuller investigation and for a determination in the exercise of the court's wide discretion. I would also hold that the current restrictions on the father's access to funds invested in Sherwood Gardens should be extended until further order in the court below.

**WALL LJ:**

**[27]** I agree that this appeal should be allowed for the reasons Thorpe LJ has given.

*[2005] 2 FLR 94 at 102*

**[28]** The first point is one of construction. Can payments pursuant to an order under Sch 1 to the Children Act 1989, in a case such as the present, properly be said to be for the benefit of the child? Taking as an example a case where a father has either abducted a child to, or retained a child in, a foreign jurisdiction not a member of the Hague Convention on the Civil Aspects of International Child Abduction 1980 (the Hague Convention), it seems to me that in principle it should be open to a mother who is not married to the child's father and who has no other jurisdictional basis upon which to make an application in her own right, to make an application for financial provision for the child designed to enable her to recover the child. Such an order, in my judgment, could properly be said, in broad terms and on appropriate facts, to be for the child's benefit.

**[29]** Whether the jurisdiction would or should be exercised in a given case will of course be a matter for the court's discretion on the facts of that individual case. There may not be many cases in which, for example, an abducting parent leaves behind assets in this jurisdiction which are capable of being attached; but if there are and if the circumstances warrant it, I see no reason why, as a matter of jurisdiction, those assets should not be the subject of an application under Sch 1 designed to benefit the child by facilitating a prompt return to the mother's care and to the jurisdiction of habitual residence.

[30] On the second jurisdictional point, I do not think that para 14 of Sch 1 to the Children Act 1989 headed 'Financial provision for child resident outside England and Wales' is designed to cater exclusively for the only circumstances in which financial provision may be ordered for such a child. Paragraph 14 covers the position in which a person resident in England may be ordered to make financial provision for a child who lives outside England and Wales on the application of another parent, guardian or a person holding a residence order in relation to the child. Speaking for myself, I see no reason why this court should not have jurisdiction in other circumstances on the application of the parent resident in this country to make an order for financial provision for a child who is living abroad, particularly where the child's residence abroad is in breach of an order of the court whether made in England or elsewhere.

[31] In the instant case the mother has the advantage of a finding by Kirkwood J that M remains habitually resident in England and Wales. She can thus buttress her application by the fact of that habitual residence. However, I wish to make it clear, like Thorpe LJ, that our judgments in this case are limited to the jurisdiction issue. The merits will be for a judge of the Division to decide on appropriate evidence. In reaching this conclusion, it seems to me that, as an exercise of discretion, Bennett J's decision of *W v J (Child: Variation of Financial Provision)* [2003] EWHC 2457 (Fam), [2004] 2 FLR 300, to which Thorpe LJ has referred, is manifestly correctly decided on its facts, which are, on any view, extreme and far removed from the facts of this case. I likewise agree with Thorpe LJ that I do not think Bennett J was seeking to lay down any general principle; nor, I think, is our decision intended to encourage applications under Sch 1 to fund continuing and expensive litigation for residence or contact orders between warring parents.

[32] Accordingly, for these reasons and for those given by Thorpe LJ, I, like him, would grant permission to appeal. I would allow the appeal, set aside para 1 of Bracewell J's order and restore the application under Sch 1 to

*[2005] 2 FLR 94 at 103*

a judge of the Division to be heard on its merits. In the meantime, I would continue injunctive relief in relation to the property.

**BLACK J:**

[33] I agree with all that has been said already and with the outcome that has been set out. I only want to add a few words on the question of the jurisdictional basis for the Sch 1 application.

[34] I do not consider that para 14 of Sch 1 to the Children Act 1989 is a comprehensive jurisdictional provision for Sch 1 in all cases in which the child is not present in this country. There is no express provision in the Children Act 1989 limiting the court's jurisdiction in Sch 1 cases, only this provision in para 14 declaring jurisdiction to exist in particular circumstances. Furthermore, jurisdiction in Sch 1 is not covered by any of the provisions that exist outside this statute, for example the Family Law Act 1986 which curbs the jurisdiction of the courts of England and Wales in certain circumstances. I do not consider that there should be implied into Sch 1 a limiting provision that would exclude an application by this mother. I do not intend to attempt to lay down exhaustively the circumstances in which there would be jurisdiction, but I am satisfied that it exists where, as here, there is a child who is habitually resident in this country but not present here with his mother in whose care he would have been had the father not unlawfully retained him at the end of a contact period in the Sudan.

*Appeal allowed; case remitted; injunctive relief to continue; further orders to be agreed.*

*Solicitors: Kingsley Napley for the petitioner*

*Osbornes for the respondent*

PHILIPPA JOHNSON

Law Reporter