

CITATION: Gonzalez v. Singh, 2024 ONSC 4385
COURT FILE NO.: CV-23-00692633-0000
DATE: 20240809

SUPERIOR COURT OF JUSTICE - ONTARIO

RE: Ingrid Gonzalez and Luis Valdivia

Plaintiffs

AND:

Gurmeet Singh and Gurdev Singh Narula
a.k.a. Gurdev Raj Narula a.k.a. Dave Narula

Defendants

BEFORE: Chalmers J.

COUNSEL: *Guillermo Schible*, for the Plaintiffs

Pathik Baxi, for the Non-Party, Walia Surenda

HEARD: August 6, 2024, by videoconference

ENDORSEMENT

Overview

[1] The plaintiffs bring this motion for a declaration that the defendant Gurmeet Singh is in contempt of court, for failing to comply with the order of Justice Akbarali dated March 4, 2024. If the court finds Mr. Singh in contempt, the plaintiffs also seek an order imposing a custodial sentence of seven days.

[2] The motion was scheduled for August 6, 2024. Rule 60.11(2) of the *Rules of Civil Procedure* provides that the motion for contempt is to be served personally on the person against whom the contempt order is sought and not by way of alternative service unless the court orders otherwise. By endorsement dated June 11, 2024, I ordered that the plaintiffs may serve the motion materials by email on Mr. Singh.

[3] The motion record was served on June 19, 2024 by sending it to Mr. Singh by email to veerg576@gmail.com. This is Mr. Singh's current email. Counsel for the plaintiffs advised the court that the email was not "bounced back". The factum was served on July 26, 2024, also by email. Again, there was no "bounce back" of the email. Despite being properly served, Mr. Singh failed to attend the contempt motion. He did not file any material and did not conduct a cross-examination of the plaintiffs' affiant, Luis Valdivia. The motion proceeded in Mr. Singh's absence.

Analysis

The Orders

[4] The plaintiffs argue that Mr. Singh's contempt is blatant and prolonged. The order of Justice Akbarali dated March 4, 2024 provides, *inter alia* that Mr. Singh is to provide a sworn statement describing the nature, value and location of his worldwide assets. The sworn statement was to include a complete accounting of the funds received from lawsuits and insurance claims, and the disposal of certain properties. He was also to provide a list of known debts, or liabilities and a complete list of all outstanding lawsuits. The order further provided that Mr. Singh was to attend an examination under oath within 21 days after the delivery of the sworn statement.

[5] This matter first came before me in Civil Practice Court on April 3, 2024. Counsel for the plaintiffs advised that Mr. Singh failed to produce the documentation ordered by Justice Akbarali. I directed Mr. Singh to comply with Justice Akbarali's order. I also ordered Mr. Singh to produce all information upon which he relies in support of his position that the various mortgages are *bona fide*. The information was to be provided by April 22, 2024. I scheduled a case conference for April 23, 2024.

[6] On April 17, 2024, Mr. Singh produced an unsworn statement. At the case conference on April 23, 2024, Mr. Singh was in attendance. He had no reasonable explanation for his failure to provide a sworn statement. He stated that his health was not good and that he did not understand what was required of him. I explained to Mr. Singh the information that he was required to produce. I stated that he was required to provide a sworn statement. I gave him another opportunity to comply. I ordered that he provide the financial disclosure, including the sworn statement as to assets as ordered by Justice Akbarali. The disclosure was to be provided by May 6, 2024. He was also ordered to produce documentation as to the legitimacy of the mortgages by the same date. He was ordered to attend on a cross-examination on the sworn statement of assets during the week of May 13, 2024.

[7] On May 2, 2024, Mr. Singh produced a sworn statement. He stated that he did not have any assets outside of Ontario. He could not specify which monies he received went to which properties. He did not provide any supporting documentation. He did not provide any documentation that related to the validity of the mortgages.

[8] Mr. Singh did not produce the necessary financial disclosure by May 6, 2024. His sworn statement is not responsive to Justice Akbarali's order. He did not produce the information with respect to the validity of the mortgages. Attempts to contact Mr. Singh after May 2, 2024 have been unsuccessful. He has not responded to any emails. As noted in my endorsement dated June 11, 2024, Mr. Singh was investigated for an arson at one of his properties. He was to deposit his passport with the OPP. He failed to do so. He failed to attend the contempt motion today. His present whereabouts are unknown.

Discussion

[9] A motion for contempt is a remedy of last resort. To establish civil contempt, the moving party must prove the following three elements beyond a reasonable doubt:

- (a) The order that was breached must state clearly and unequivocally what should and should not be done;
- (b) The party alleged to have breached the order must have had actual knowledge of it; and,
- (c) The party allegedly in breach must have intentionally done the act that the order prohibits or intentionally failed to do the act that the order compels: *Carey v. Laiken*, 2015 SCC 17, (Carey) at paras. 32-37.

[10] As a rule, the contempt hearings are bifurcated into a liability phase and if liability is established, a penalty phase. One of the reasons for the bifurcated hearing is to allow the court to determine whether the contempt proceeding has the desired effect of enforcing compliance with the order: *Landmover Trucks Inc. v. Bhullar*, 2017 ONSC 195, at para. 19.

Were the Orders Clear and Unequivocal?

[11] The Akbarali order is in the approved form for a *Mareva* injunction. The order requires Mr. Singh to provide a sworn statement of his worldwide assets. He was also required to provide information about amounts received in any claims or insurance. Mr. Singh did not file an affidavit in which he states that the Akbarali order was not clear.

[12] At the case conferences on April 5 and 23, 2024, I explained to Mr. Singh what was required to be produced. He was specifically told that a sworn statement was required that disclosed his worldwide assets. At the case conference on April 23, 2024, Mr. Singh stated that he did not understand what was required of him. Again, I explained that he was required to produce a sworn statement as to his worldwide assets. Mr. Singh provided a sworn statement on May 2, 2024. However, the sworn statement was not responsive. It did not include any documentation. I note that Mr. Singh had retained a lawyer to assist him with respect all relevant steps. If there was any difficulty in understanding the orders, he would have had the assistance of the lawyer.

[13] I am satisfied that the language of the orders is clear and unequivocal.

Did the Defendants Have Actual Knowledge of the Order?

[14] The Akbarali order was sent to Mr. Singh by email. When he attended at the case conference on April 5, 2024, he did not advise the court that he had not received the order. In fact, he acknowledged the order, but stated that he did not understand what was required of him. At the case conferences on April 5 and 23, 2024, I explained to Mr. Singh what was required to be produced.

[15] The order made at the case conference on April 5, 2024, was sent to Mr. Singh. At the case conference on April 23, 2024, he did not take the position that he did not have knowledge of the April 5, 2024 order. The order from the April 23, 2024 case conference was also sent to Mr. Singh.

[16] Mr. Singh did not file an affidavit in which he states that he did not receive the orders or that he did not have actual knowledge of the orders. I find that Mr. Singh had actual knowledge of the Akbarali order and the orders I made on April 5 and 23, 2024.

Did the Mareva Defendants Intentionally Fail to Comply with the Order?

[17] Mr. Singh did not provide the sworn statement of assets ordered by Justice Akbarali. Although he delivered an unsworn statement on April 17, 2024, I made it clear to Mr. Singh that a sworn statement was required. He seems to have understood, and provided a sworn statement on May 2, 2024. However, the sworn statement was not responsive to the orders. There were no attachments to the sworn statement. He did not provide the information regarding the validity of the mortgages pursuant to my orders made on April 5 and 23, 2024.

[18] Mr. Singh did not file any material on the motion. Instead of providing the material ordered, he failed to respond to any emails, and failed to attend on the motion, despite being properly served.

[19] I am satisfied that Mr. Singh intentionally failed to comply with the production orders.

Is the Finding of Contempt Just?

[20] I am satisfied that Mr. Singh has treated this court with contempt. He failed to provide a responsive sworn statement as to his worldwide assets. He failed to provide documentation to establish the validity of the mortgages. I find that he failed to comply with both the letter and spirit of the injunction: *Ceridian Canada Ltd. v. Azeezodeen*, 2014 ONCA 656, at para. 8. He further failed to attend the contempt motion.

[21] I am satisfied that the plaintiffs have proven beyond a reasonable doubt that Mr. Singh intentionally failed to comply with the various orders.

[22] In *Carey*, the Supreme Court stated that, “the rule of law is directly dependent on the ability of the courts to enforce their process and maintain their dignity and respect: *Carey*, at para. 30. I am satisfied that a finding of contempt as against Mr. Singh is necessary to maintain dignity and respect for the court.

Penalty Stage

[23] I schedule the penalty stage of the contempt motion for September 9, 2024 at 11:00. The hearing will be in person.

[24] One of the reasons why the contempt hearing is bifurcated is to provide another opportunity for the contemnor to purge his contempt. The extent to which Mr. Singh complies with

the Akbarali order dated March 4, 2024, and my orders made on the case conferences on April 5 and 23, 2024, will be a factor in determining the appropriate sentence.

[25] The issue of the costs of the liability phase of the contempt hearing is reserved to the penalty phase.

Other Matters

[26] Mr. Singh's home located at 3722 Grange Side Road has been sold. The closing is scheduled for September 13, 2024. If the plaintiffs bring a motion to have the net proceeds from the sale paid into court for the benefit of this action, the motion will be heard on September 9, 2024. If the mortgagee of the property brings a motion to release the money currently held in court, that motion will also be heard on September 9, 2024.

[27] I remain seized.

Chalmers J.

Date: August 9, 2024