

COURT OF APPEAL FOR BRITISH COLUMBIA

Citation: *Parihar v. Royal Bank of Canada*,
2024 BCCA 368

Date: 20241104
Docket: CA49649

Between:

Mohit Parihar

Appellant
(Respondent)

And

Royal Bank of Canada

Respondent
(Petitioner)

Before: The Honourable Justice Griffin
The Honourable Mr. Justice Abrioux
The Honourable Justice Fleming

On an application to vary: An order of the Court of Appeal for British Columbia,
dated June 26, 2024 (*Parihar v. Royal Bank of Canada*,
Vancouver Docket CA49649).

The Appellant, appearing in person:

M. Parihar

Counsel for the Respondent
(via videoconference):

L.G. Yang

Place and Date of Hearing:

Victoria, British Columbia
October 8, 2024

Place and Date of Judgment:

Vancouver, British Columbia
November 4, 2024

Written Reasons by:

The Honourable Justice Griffin

Concurred in by:

The Honourable Mr. Justice Abrioux

The Honourable Justice Fleming

Summary:

The appellant applies to review an order of a justice of this Court in Chambers, that dismissed his application for an extension of time and ordered the appeal dismissed as abandoned. The respondent applies for a vexatious litigant order. Held: The appellant’s application is dismissed; respondent’s application granted. The appellant’s application has no merit. He has repeatedly sought to challenge orders in a foreclosure proceeding that resulted in the sale of his property. Despite having received several judgments dismissing his arguments that the order nisi was invalid because he was not in default of the mortgage, he continues to pursue the same arguments over and over again. The chambers judge properly understood that the appellant needed an extension of time to pursue these arguments again in a new application for leave to appeal, and the appellant has not shown any basis for interfering in the decision dismissing that application. The respondent has established that the appellant has crossed the line into becoming a vexatious litigant, and an order is made putting some limits on what he may file in this Court in the future.

Introduction

[1] This is a hearing of two applications: first, an application by the appellant (Mohit Parihar) to vary or cancel the order of a justice dismissing his appeal, namely, the order of Justice Groberman made June 26, 2024; and, second, an application by the respondent Royal Bank of Canada (“RBC”) to have the appellant declared a vexatious litigant.

[2] I will set out some general background to the litigation and then deal with Mr. Parihar’s application, followed by RBC’s application. In general, however, the underlying dispute between Mr. Parihar and RBC has to do with RBC bringing a petition foreclosure proceeding in the British Columbia Supreme Court (“BCSC”) against Mr. Parihar in relation to a loan secured by mortgage against his property (the “Property”).

[3] RBC successfully obtained orders in the BCSC foreclosure petition proceeding, including an order *nisi* based on default in complying with the terms of the mortgage on October 6, 2022; an order for conduct of sale on May 31, 2023, effective July 4, 2023; and approval of the sale of the Property and an order that vacant possession of the Property be delivered to the purchasers on January 25, 2024. The sale of the Property completed on January 24, 2024.

[4] I have attached as Appendix “A” to these reasons a chronology of the various litigation steps that have occurred since RBC commenced the foreclosure petition.

Background

[5] Mr. Parihar and his ex-wife owned a residential property in the District of Saanich (the “District”). The title to the property was burdened by a mortgage in favour of RBC.

[6] On April 7, 2021, RBC petitioned the BCSC to declare the mortgage was in default. RBC did not allege that the mortgage was in arrears. Instead, RBC alleged that the Parihars had breached various provisions of the mortgage, including by (1) completing extensive renovations without permits and without RBC’s consent; (2) failing to maintain adequate insurance on the Property; and (3) entering and registering on title a tax deferral agreement with the District without RBC’s consent. Mr. Parihar filed a response indicating that he was opposed to the orders.

[7] On July 22, 2022, Mr. Parihar was convicted in provincial court of a number of bylaw infractions, centering on the presence of an illegal secondary suite and renovations completed without permits.

[8] On August 23, 2022, Mr. Parihar filed an application to adjourn the hearing of RBC’s petition until his appeals from conviction of the bylaw infractions had been decided. Associate Judge Bouck held on September 13, 2022, that the adjournment application would be heard in judge’s chambers on October 6, 2022, at the same time as the petition. Mr. Parihar advised RBC in advance of the hearing that his lawyer had withdrawn and he would be representing himself.

[9] On October 6, 2022, RBC’s petition was heard before Justice Young. Mr. Parihar did not attend. He gave no notice that he would not attend, and indeed, had indicated that he would attend. The Court found several breaches of the mortgage, and made the orders sought by RBC. These included a redemption amount of \$269,926.94 with interest accruing, a six-month redemption period, and costs at scale A (the “Order *Nisi*”).

[10] Mr. Parihar then applied before Young J. for reconsideration of the Order *Nisi*. On October 21, 2022, Young J. heard and dismissed Mr. Parihar’s application. Justice Young did not accept Mr. Parihar’s explanation for missing the earlier hearing date. She found that he had not shown that he was not guilty of wilful delay or default, a precondition to reconsideration due to non-attendance pursuant to Rule 22-1(3) of the *Supreme Court Civil Rules* (the “October 21, 2022 Order”).

[11] Justice Young nonetheless went on to consider the merits of Mr. Parihar’s arguments that RBC did not have grounds for treating the mortgage in default. She found that Mr. Parihar had no defence worthy of investigation. She rejected Mr. Parihar’s argument that RBC had an obligation to give him notice of default and an opportunity to cure the default before commencing foreclosure proceedings. Mr. Parihar raised that he was appealing the bylaw convictions, and that he had since obtained insurance. Justice Young found that these were not valid reasons to overturn the Order *Nisi*. She found as a fact that Mr. Parihar had breached the mortgage, including by making alterations to the house without consent of RBC; not obtaining building permits first; and not having insurance.

[12] In dismissing the application for reconsideration, Justice Young noted that Mr. Parihar already had six months to deal with the Order *Nisi* (between April 2022 when RBC started foreclosure proceedings to October 2022 when the Order *Nisi* was made), and the Order *Nisi* itself gave him a further six months to remedy the situation by redeeming the mortgage by paying it out or getting a replacement mortgage or by convincing the bank to reinstate him. Justice Young rejected Mr. Parihar’s assertion that he was being kicked out of the house, and counseled Mr. Parihar:

At the end of that six months, if you have not either obtained financing from someone else or sold the property and discharged this mortgage, that is when the bank might apply to have the property sold.

[*Royal Bank of Canada v. Parihar*, 2024 BCSC 316 at para. 20.]

[13] On October 31, 2022, Mr. Parihar applied for an order in the BCSC that the Order *Nisi* “be dismissed”. This application was dismissed by Justice Saunders on

November 22, 2022, who found it to be an abuse of process and ordered that Mr. Parihar pay costs of \$1,000.00 to RBC (the “November 22, 2022 Order”).

[14] In that proceeding, Mr. Parihar commenced appeal proceeding CA48646 the same day, on November 22, 2023. An extension of time to seek leave to appeal the Order *Nisi* was granted by Justice DeWitt-Van Oosten in this Court on February 15, 2023.

[15] On May 4, 2023, Justice Marchand (as he then was) of this Court denied Mr. Parihar’s application for leave to appeal all three orders (the Order *Nisi*; the October 21, 2022 Order; and the November 22, 2022 Order). Justice Marchand accordingly also dismissed Mr. Parihar’s application for a stay of the Order *Nisi*. Mr. Parihar’s principal arguments at the hearing were that the initial application should not have proceeded in his absence and that the Order *Nisi* would not have been made if the court had been aware of steps he had taken to address the mortgage breaches relied on by the bank. Justice Marchand found that these arguments were without merit (the “May 4, 2023 CA Order”).

[16] Mr. Parihar did not file an application to have the May 4, 2023 CA Order reviewed or varied within the seven day time limit prescribed by R. 62(2) of the *Court of Appeal Rules* [CA Rules]. He brought an application for an extension of time, which was heard on June 12, 2023. Justice Willcock dismissed the application, finding there was no reasonable prospect of Mr. Parihar establishing that there was an error on the part of Marchand J.A., and no prospect of him establishing that it would be in the interests of justice to grant leave in this case (the “June 12, 2023 CA Order”).

[17] On October 11, 2023, Mr. Parihar’s applied to a division of this Court to review or vary the June 12, 2023 CA Order. This application was dismissed, with reasons indexed at 2023 BCCA 378.

[18] Meanwhile, the foreclosure proceeding continued in the BCSC. RBC obtained an order for conduct of sale on May 31, 2023, effective July 4, 2023. This order was not appealed.

[19] On December 6, 2023, Associate Judge (formerly Master) Bouck granted (1) an order approving the sale of the Property to the purchasers for the sum of \$679,900, (2) a vesting order; and (3) an order for vacant possession on January 25, 2024 (the “Approval of Sale and Vesting Order”). If vacant possession was not delivered on that date, the Order allowed RBC to apply for a writ of possession from the Registrar, without further order. In support of the sale price, the bank relied on the affidavit of a realtor and an appraisal which valued the property at \$650,000. Mr. Parihar opposed these orders and argued that the appraisal report was inaccurate because it considered the basement suite to be illegal and of no value. He submitted development permits, inspection reports and tax assessments, but did not file any appraisal or competing offers for the property. I have borrowed from the reasons of Willcock J.A. made February 14, 2024 in setting out this history.

[20] On December 7, 2023, Mr. Parihar filed in the BCSC a notice of appeal from the Associate Judge’s Approval of Sale and Vesting Order. He has not prosecuted this appeal in a timely way. He initially set it for hearing on August 13, 2024 but applied, without notice to RBC, for an adjournment in the BCSC on August 9, 2024, which was granted. His materials suggested that in obtaining the adjournment, he led the court to believe it was necessary or relevant to have the present appeal heard first.

[21] Mr. Parihar also applied, without notice to RBC, for an interim stay of the portion of the Approval of Sale and Vesting Order which allowed for RBC to apply for a writ of possession without further order. He did not apply to stay the order for sale or the vesting order. This application was heard by Justice MacDonald on January 16, 2024. The transcript of that hearing (since obtained by RBC), shows Mr. Parihar advised the judge that there was urgency to his application because if the Property was sold, there would be no point of filing an appeal. I note he has

since apparently retreated from this position as he continues to press appeal proceedings despite the sale having completed. The judge granted a three-week stay of the portion of the Approval of Sale and Vesting Order giving RBC the right to apply for a writ of possession and advised Mr. Parihar that he needed to serve RBC if he wished to apply to extend the stay.

[22] On January 19, 2024 Mr. Parihar filed for an application for an interim order further staying the order for possession, this time with notice to the respondents.

[23] On January 24, 2024 Mr. Parihar registered a certificate of pending litigation against the Property.

[24] On January 29, 2024 RBC filed an application to set aside the January 16, 2024 *ex parte* order that had stayed the writ of possession portion of the Approval of Sale and Vesting Order. RBC took the position that there had been no order staying the transaction approved by that Order, and therefore the sale was completed on January 24, 2024, and Mr. Parihar's application for an interim order was moot.

[25] On February 2, 2024 Justice Chan granted RBC's application and set aside the January 16 *ex parte* order, dismissed Mr. Parihar's application for an interim stay of the Approval of Sale and Vesting Order, and declared the certificate of pending litigation to be of no force or effect (the "February 2, 2024 Order").

[26] On February 7, 2024 Mr. Parihar filed a notice to appeal the February 2, 2024 Order in this Court, commencing the present appeal proceeding, CA49649.

[27] On February 14, 2024, Justice Willcock dismissed Mr. Parihar's application for a stay pending appeal. On February 20, Mr. Parihar filed an application to vary or cancel this order, however, it appears that he failed to proceed with this or to contact the Court of Appeal Registry to schedule a hearing of his application.

[28] RBC obtained a writ of possession on February 15, 2024 and Mr. Parihar was evicted from the Property on February 22, 2024.

[29] On April 29, 2024, RBC paid surplus proceeds of sale in the amount of \$191,091.23 into court in accordance with the Approval of Sale and Vesting Order.

[30] On May 21, 2024, Mr. Parihar filed an application in this Court for an extension of time to file a factum, appeal record, and appeal book, and for a no fee order in relation to his appeal from the February 2, 2024 Order.

[31] On June 26, 2024, Justice Groberman dismissed this application and dismissed the appeal as abandoned (“June 26, 2024 CA Order”). In his reasons, Groberman J.A. found that:

The basic problem with the application today is that Mr. Parihar does not have a right of appeal to this Court. At best, he can seek leave to appeal, but he has not done so. This morning for the first time, he has suggested that he really wants this matter simply converted over to a leave application. But, it is far too late to make that argument.

[*Parihar v. Royal Bank of Canada* (26 June 2024), Vancouver CA49649 (B.C.C.A.) para. 2 (“Groberman Reasons”)].

[32] Additionally, Groberman J.A. found that there is “no prospect of the leave application succeeding given the time that has passed and the prejudice to the respondents and to non-parties”, in particular considering that there has been a final order for sale, a writ of possession has been issued, and new owners have taken possession: Groberman Reasons, paras. 3–4.

[33] On June 28, 2024, Mr. Parihar filed the present application to vary the June 26, 2024 CA Order, dismissing his application for an extension of time to file materials and dismissing the appeal as abandoned.

[34] On September 19, 2024, RBC filed its application for an order declaring Mr. Parihar a vexatious litigant.

[35] The latter two applications are the subject of these reasons.

Leave to Appeal Requirements in Foreclosure Matters

[36] Foreclosure proceedings in the BCSC are governed by *Supreme Court Civil Rules*, R. 21-7. Any order made in foreclosure proceedings is a “limited appeal

order” pursuant to *CA Rules*, R. 11(a)(ix), and therefore any party seeking to appeal it must apply for leave to appeal: *CA Rules*, R. 12. The process set out in the *CA Rules* to seek to appeal an order made in a foreclosure proceeding is as follows:

- a) The party must file a notice of appeal in the required form within 30 days after the order is pronounced (R. 6). Because leave to appeal is required, the party must tick a box on the form indicating this;
- b) The party must file and serve a notice of application for leave to appeal and an application book for leave to appeal, in the proper form, not more than 30 days after filing the related notice of appeal (R. 13(a)); and
- c) The party seeking leave to appeal must obtain a hearing date for the application for leave to appeal at least 10 days after filing and serving the application book for leave to appeal (R. 13(b)).

Should Groberman J.A.’s June 26, 2024 CA Order be Varied?

[37] The authority to review and cancel or vary an order made by a justice is found under s. 29(1) of the *Court of Appeal Act*, S.B.C. 2021 c. 6 [“*CA Act*”].

[38] A review application is not a rehearing of the original application: *Li v. Chao Yin Canada Group Inc.*, 2024 BCCA 217 at para. 29. The standard of review to be applied is “highly deferential”. The Court will ask whether the judge was wrong in law, wrong in principle, or if the judge misconceived the facts. Absent any of these errors, a division will not change the order: *Li* at para. 29, citing *Gill v. Gill Estate*, 2023 BCCA 427 at para. 13.

[39] As a reminder given the extensive proceedings, the June 26, 2024 CA Order dismissed the appellant’s application for an extension of time to file the factum, an appeal record, and an appeal book, and dismissed the appeal as abandoned. Groberman J.A. also dismissed Mr. Parihar’s application for a no fee order.

[40] The underlying appeal is from the February 2, 2024 Order of Chan J. As it was made in the foreclosure proceedings, Mr. Parihar needed to apply for leave to appeal in accordance with the time requirements I have set out above.

[41] Mr. Parihar says that Groberman J.A. erred in believing that Mr. Parihar was applying for an extension of time when instead he was applying for leave to appeal.

[42] I see no merit to Mr. Parihar's suggestion that Groberman J.A. misconceived the nature of the application before him.

[43] In the notice of application Mr. Parihar filed May 21, 2024, in advance of the hearing before Groberman J.A., he set out in the box next to the form's requirement to "enter the order you are seeking":

EXTENSION OF TIME TO FILE FOLLOWING DOCUMENTS

(A) FACTUM

(B) APPEAL RECORD

(C) APPEAL BOOK

EXTENSION OF TIME TO BEG HONORABLE COURT TO PROVIDE,
enough time for 'ROWBOTHAM APPLICATION'...

[44] The latter application is only pertinent to criminal proceedings. This is a civil appeal, so it was relief that could not be granted.

[45] Mr. Parihar also sought an order that relieved him of the obligation to pay court fees.

[46] The relief addressed by Groberman J.A. was exactly the relief sought in Mr. Parihar's notice of application.

[47] Further, the authority cited in Mr. Parihar's notice of application was not the authority he would cite if he was seeking leave to appeal. By the time of that application, Mr. Parihar had experience in reading court rules and in applying for leave to appeal and extensions of time.

[48] In his notice of application, Mr. Parihar cited “Rules 5(1)(a), 52, 54A,B,C and 85” as his authority for his application. Rule 5 simply has to do with filing documents electronically. Rule 52 has to do with bringing applications in the Court of Appeal, but specifically excludes certain types of applications such as an application for leave to appeal. Rule 54 has to do with certain requirements of service of a notice of application. And Rule 85 is an application for an order that no fees are payable.

[49] It was therefore clear not just from the relief sought in his application, but also from the Rules he cited as authority, that Mr. Parihar’s application was not an application seeking leave to appeal.

[50] Further, I have reviewed the transcript of the hearing before Groberman J.A. At the start of the hearing, Groberman J.A. asked and Mr. Parihar confirmed the nature of the application was as set out in the relief sought portion of Mr. Parihar’s notice of application.

[51] However, during the hearing Mr. Parihar told Groberman J.A. that he made a mistake, and that all he needed to file was the appeal book. I take from his submissions that Mr. Parihar understood he did not need to file an appeal record or factum because he first needed to obtain leave to appeal. But pursuant to Rule 13, he still needed to file an application book for leave to appeal not more than 30 days after filing the related notice of appeal, that is, within 30 days of February 7, 2024. Mr. Parihar had failed to do so and provided no explanation for this failure. He was also required to set a hearing date for leave to appeal at least 10 business days after filing and serving the application book, another step he had not taken in time.

[52] Thus, by the June hearing before Groberman J.A., Mr. Parihar was well outside the time for advancing a leave application and hence he needed an order granting him an extension of time to file an application book for leave to appeal if he was to be permitted to proceed. His lateness was especially concerning given that there were other people who would be prejudiced if the appeal proceeded, namely the purchasers of the Property and RBC.

[53] Mr. Parihar also said in the hearing before Groberman J.A. that two days before the hearing he filed an affidavit #4, in which he stated that he was also seeking leave to appeal, relying on Rule 12 or 13 or both. He also referred in his affidavit to s. 19 of the *CA Act*, which states that an appeal should not be defeated by irregularities. He tried to say previous judges had made mistakes, including this Court, and that Groberman J.A. should just fix it based on s. 19. Justice Groberman tried to explain to him that s. 19 was not applicable to the arguments he was making. Mr. Parihar made submissions referring piecemeal to some of the several affidavits he has filed in this Court and the court below, claimed that RBC had acted fraudulently and lied in the foreclosure, and repeatedly said he was a self-represented litigant. In an attempt to clarify some of these confusing submissions, the chambers judge questioned if what Mr. Parihar was wanting was to convert his application to an application for leave, to which Mr. Parihar answered affirmatively. During that discussion, Groberman J.A. did not grant that relief. He was simply trying to understand what Mr. Parihar was seeking.

[54] In the hearing before this division, Mr. Parihar explained that in his notice of appeal filed on February 7, 2024, he ticked the box acknowledging that leave was required. He suggests that Groberman J.A. made an error because he did not understand Mr. Parihar had done so. But this was not the issue. Ticking a box on the notice of appeal form acknowledging that leave is required, is not the same thing as bringing the leave application on time. The issue was that Mr. Parihar had not complied with the rules for seeking leave and had not filed an application book in support of such an application within 30 days. An application book would give RBC notice of his argument in support of leave. Mr. Parihar was out of time to file an application book and so needed an order granting him an extension of time.

[55] During the same hearing before Groberman J.A., counsel for RBC pointed out they had not been given proper notice of Mr. Parihar's affidavit #4 before the hearing. Counsel for RBC also submitted that Mr. Parihar did not meet the test for an extension of time. Counsel further explained that the sale of the Property to new purchasers had closed and the new purchasers had taken possession.

[56] Mr. Parihar has filed a number of applications and documents in the BCSC and in this Court in this matter and the related appeal (Court of Appeal file number CA48646), and there is no reason to think that he was incapable of applying for leave to appeal within the proper timeframe. He offered no explanation as to why he waited from the date of the February 2, 2024 Order until June 2024 to raise the prospect that he needed to bring a leave application.

[57] At the hearing before us, Mr. Parihar attempted to advance a new argument in his oral submissions. He argued that Groberman J.A. erred because he failed to understand that Mr. Parihar had already filed an application book for leave to appeal, and it was filed on time. Mr. Parihar held up a document in the courtroom to illustrate to this division that he had filed an application book. However, when we inspected it, it was not an application book for leave to appeal. It was an application book for a stay of the February 2, 2024 Order, filed in support of his stay application heard and dismissed by Willcock J.A. on February 14, 2024. The order sought in that application book is an “order for freeze of everything”, until his appeal from the Approval of Sale and Vesting Order is heard. Counsel for RBC confirmed that they have never been served with an application book for leave to appeal the February 2, 2024 Order.

[58] I point out the obvious that even if Mr. Parihar had filed an application book for leave to appeal on time, or was confused as to whether the application book for a stay could serve as his application book for leave to appeal, he failed to set a hearing date for leave to appeal at least 10 business days after filing and serving the application book. He would still need Groberman J.A. to grant him an extension of time to proceed with his leave to appeal application.

[59] Justice Groberman understood the situation correctly: Mr. Parihar needed an extension of time to proceed with any application for leave to appeal from the February 2, 2024 Order. Mr. Parihar has not identified any error with Groberman J.A.’s June 26, 2024 CA Order dismissing his application for an extension of time and I would dismiss his application to vary that order.

Should A Vexatious Proceedings Order Be Made?

[60] I turn to RBC’s application for an order declaring Mr. Parihar to be a vexatious litigant, and imposing terms on his ability to bring proceedings. In this regard, I rely on Appendix “A” and the history above as background.

[61] A division or justice may order that a person must seek leave before bringing or continuing proceedings, if they are satisfied that a person “has habitually, persistently and without reasonable cause commenced or continued vexatious proceedings in any of the courts of British Columbia”: s. 22(1) of the *CA Act*. The person subject to this order must be given the opportunity to make written submissions or otherwise be heard before an order is made: s. 22(2), *CA Act*. Mr. Parihar has been given that opportunity.

[62] I note that while this type of order is often referred to in short-form as a “vexatious litigant order”, the order does not necessarily imply that a particular litigant is a vexatious person generally. The order is made after finding that the proceedings brought by the litigant are vexatious.

[63] As stated by Justice Dickson in *Cinnabar Brown Holdings Ltd. v. Sherwood* (24 November 2022), Vancouver CA48560 (B.C.C.A.) (Chambers) at para. 52:

The term “vexatious” does not describe the litigant’s personality. Rather, it speaks to the nature and quality of a case the courts should no longer be burdened with, including cases in which an issue has already been determined by a court of competent jurisdiction.

[64] The purpose of s. 22 is to prevent abuses of the Court’s process “by repetitive unmeritorious proceedings that needlessly expend judicial resources and cause unnecessary expense to other parties”: *Arvanitis v. Slater Vecchio LLP*, 2022 BCCA 326 at para. 43 [*Arvanitis*]. Such an order should not be made lightly—it is “an extraordinary form of order that alters a person’s right of access to the courts”: *Arvanitis* at para. 43.

[65] In *Lindsay v. Canada (Attorney General)*, 2005 BCCA 594 at para. 25, this Court set out a non-exhaustive list of factors to be considered when deciding if an order under s. 22(1) should be made:

- (a) the bringing of one or more actions to determine an issue which has already been determined by a court of competent jurisdiction constitutes a vexatious proceeding;
- (b) where it is obvious that an action cannot succeed, or if the action would lead to no possible good, or if no reasonable person can reasonably expect to obtain relief, the action is vexatious;
- (c) vexatious actions include those brought for an improper purpose, including the harassment and oppression of other parties by multifarious proceedings brought for purposes other than the assertion of legitimate rights;
- (d) it is a general characteristic of vexatious proceedings that grounds and issues raised tend to be rolled forward into subsequent actions and repeated and supplemented, often with actions brought against the lawyers who have acted for or against the litigant in earlier proceedings;
- (e) in determining whether proceedings are vexatious, the court must look at the whole history of the matter and not just whether there was originally a good cause of action;
- (f) the failure of the person instituting the proceedings to pay the costs of unsuccessful proceedings is one factor to be considered in determining whether proceedings are vexatious;
- (g) the respondent's conduct in persistently taking unsuccessful appeals from judicial decisions can be considered vexatious conduct of legal proceedings.

[66] The ultimate question is whether the litigant has taken themselves over the line: *Lindsay* at para. 26.

[67] A litigant's conduct in the court below is relevant, but the focus of a s. 22(1) order is the prevention of the abuse of this Court's process: *Arvanitis* at para. 47.

[68] On the issue of Mr. Parihar being declared a vexatious litigant, RBC highlights the content of Mr. Parihar's various applications and proceedings and submits that he is deliberately engaging in repetitive, duplicative applications and arguments and abusing court process. Mr. Parihar has also begun to personally attack counsel for RBC, advancing scandalous allegations of fraudulent conduct.

[69] RBC previously brought an application to have Mr. Parihar declared a vexatious litigant, at the time of Mr. Parihar's application to vary or cancel Justice Willock's decision made June 12, 2023 refusing an extension of time. In its order of October 11, 2023, a division of this Court refused the application.

[70] Mr. Parihar seems not to have tailored his conduct in any way since RBC's previous application.

[71] Since the October 11, 2023 decision of this Court, Mr. Parihar has initiated the within proceeding and two applications in this Court. I can say that it is difficult to discern any merit to his applications in this Court.

[72] In this Court, Mr. Parihar has often failed to comply with the timelines in the *CA Rules*, and then has sought extensions of time, sometimes adjourning these applications, and when the applications are not granted because of lack of merit, initiates review proceedings, all the while raising at every stage his complaint that there was no basis for RBC alleging he was in default of the mortgage. I am aware of at least three other applications for extensions of time which Mr. Parihar has brought and had dismissed in this Court, not including the application he brought before Groberman J.A., and two other review applications he commenced, although he only took one other to hearing (which was dismissed).

[73] In my view, Mr. Parihar has brought far too many applications in this Court. This is the second appeal proceeding arising from the same foreclosure proceeding. He repeatedly asserts as the focus in his various applications that the original grounds for RBC alleging he was in default of the mortgage are invalid. He has sought to revisit these issues numerous times in this Court. Mr. Parihar has been unable to accept that he was in breach of the mortgage even though his payments were up to date; that other breaches could not be corrected retroactively; he has lost these arguments; and the Court's decision on these matters is final.

[74] Each appeal and application brought by Mr. Parihar expends considerable judicial resources, because he insists on revisiting the same issues, and because

now the history of the litigation is so replete with his multiple confusing applications it is difficult to untangle. It also costs RBC legal expenses to respond. His chaotic submissions impose a burden on RBC to try to respond and to order and pay for transcripts of court hearings to correct Mr. Parihar's sometimes inaccurate and incomplete version of events.

[75] Further, in my review of the position Mr. Parihar took before Groberman J.A. and this division, I question whether he is now counting on the confusion created by his many court filings, and his status as a self-represented litigant, to advance disingenuous arguments, such as the arguments before us as to the nature of his application before Groberman J.A. His lack of legal training does not explain his shifting positions.

[76] Mr. Parihar argues that he is not a vexatious litigant. He suggests that the fact that he adjourned a hearing in front of the BCSC in order to "deal with" the present application is evidence that he is not trying to waste the court or RBC's time. I do not accept this argument. The present matter should not affect his proposed appeal in the BCSC, on the merits, of the Approval of Sale and Vesting Order. It is to be remembered that the present underlying appeal is from the February 2, 2024 Order which simply refused to extend the *ex parte* stay of the writ of possession, after the sale of the Property had already taken place.

[77] Like the litigant in *Dick v. Coquitlam (City)*, 2023 BCCA 261, a case which also concerned a foreclosure proceeding, Mr. Parihar has shown a tendency to continue in a "relentless quest to bring the same issue before the court over and over again. He pays no attention to the requirements of the rules or the principle of finality of litigation": para. 25.

[78] In my view, Mr. Parihar should be restricted in his repeated challenges in this Court of the orders that have been made to date in this Court and to date in the BCSC respecting the foreclosure proceeding.

[79] For these reasons, I declare Mr. Parihar a vexatious litigant pursuant to section 22(1) of the *CA Act* and impose on him certain terms and conditions respecting his access to this Court as follows:

- (a) It is ordered that Mr. Mohit Parihar, or any person acting on his behalf, is barred from commencing any proceedings in this Court without leave of the Court or a justice that are in any way connected to the foreclosure proceedings dealing with the property at 4037 Lakehill Place, Victoria, BC (the “Property”);
- (b) As an exception to the above term, Mr. Parihar may commence a proceeding in this Court without leave of the Court or a justice if his document commencing the proceeding is signed by a member in good standing of the Law Society of British Columbia and is otherwise in accord with *CA Rules* for commencing a proceeding in this Court;
- (c) Any application pursuant to (a) above seeking leave to commence legal proceedings in this Court:
 - i. must be accompanied by a written argument that is no longer than five pages and that identifies the order sought to be appealed and the grounds of appeal; and
 - ii. must be accompanied by the entered court order from which he seeks to appeal, or if no order has been entered, Mr. Parihar must, in his written argument, describe the steps taken to obtain an entered order; and
 - iii. must be served on counsel for the respondent.

[80] The purpose of this order is to discourage Mr. Parihar from seeking to challenge the Order *Nisi* and related stay applications or extension of time applications over and over again. Mr. Parihar should understand that he will be

unlikely to be granted leave to file any repeat applications by him in this Court which at their root are a challenge to the Order *Nisi*.

[81] This Court often approaches vexatious litigant orders in a staged way, at first imposing some general restrictions in the hopes that the restrictions will modify the repetitive and duplicative proceedings filed by the litigant; and at a second stage, imposing greater restrictions if the earlier restrictions do not seem to inhibit the vexatious proceedings. I have tried to take this approach here and am hopeful that a second stage order will not be necessary.

[82] Before I complete these reasons, I wish to highlight that the intention with the current vexatious litigant order is to make it clear to Mr. Parihar that there is simply no more ability for him to challenge the Order *Nisi* or procedural rulings regarding his applications for a stay.

[83] At the same time, I note that Mr. Parihar has not yet been heard on his BCSC appeal from the Approval of Sale and Vesting Order made by Associate Justice Bouck on December 6, 2023. As I understand it, although he did not file appraisal evidence, on that outstanding BCSC appeal Mr. Parihar wishes to challenge the appraisal evidence relied upon by RBC and argue that the sale of the Property was improvident. It is possible that if the BCSC appeal is heard and determined in the future, Mr. Parihar might wish to seek leave to appeal in this Court from the outcome. He would first need leave to file an application for leave to appeal in accordance with the above vexatious litigant order. I simply flag for any future justice hearing such an application, that as far as I understand the record, the issue of whether the sale price obtained for the Property was provident has not yet been the direct subject of proceedings and rulings in this Court.

“The Honourable Justice Griffin”

I agree:

“The Honourable Mr. Justice Abrioux”

I agree:

“The Honourable Justice Fleming”

Appendix A

Date	Court	Event
April 7, 2021	BCSC	RBC files a petition to declare mortgage in default.
July 22, 2022	BCPC	Mr. Parihar is convicted of bylaw infractions in provincial court due to the presence of an illegal secondary suite on the Property and renovations completed without permits.
August 16, 2022	BCSC	RBC schedules the petition for hearing on October 6, 2022.
August 23, 2022	BCSC	Mr. Parihar files an application to adjourn the hearing of RBC's petition until his appeals from conviction have been decided.
September 13, 2022	BCSC	Mr. Parihar appears on his own behalf to apply for an adjournment of RBC's petition. Associate Judge (formerly Master) Bouck orders that the adjournment application be heard in chambers at the same time as RBC's petition.
September 26, 2022	BCSC	Mr. Parihar emails counsel for RBC advising that his lawyer has withdrawn and he will be representing himself.
October 6, 2022	BCSC	RBC's petition is heard by Justice Young. Mr. Parihar does not attend. Justice Young makes an order that Mr. Parihar must redeem the mortgage within six months (the "Order <i>Nisi</i> ").
October 11, 2022	BCSC	Mr. Parihar applies for an order in the BCSC that RBC's application be reconsidered.
October 21, 2022	BCSC	Justice Young hears and dismisses the application for reconsideration.
October 31, 2022	BCCA (CA48646)	Mr. Parihar files a notice of appeal, appealing the Order <i>Nisi</i> , the October 21, 2022 Order, and the November 22, 2022 Order.
November 8, 2022	BCSC	Mr. Parihar applies for an order in the BCSC that the Order <i>Nisi</i> be dismissed.
November 22, 2022	BCSC	Justice Saunders finds Mr. Parihar's dismissal application to be an abuse of process. He dismisses the application and orders that Mr. Parihar pay costs of \$1,000.00 to RBC. According to RBC this cost award has not been paid.
November 22, 2022	BCCA (CA48646)	Mr. Parihar files an application for an extension of time to file and serve the notice of application and application book for leave to appeal.
January 10, 2023	BCCA (CA48646)	Justice Bennett adjourns Mr. Parihar's application for an extension of time to file and serve the notice of application and application book for leave to appeal to February 2, 2023.
January 18, 2023	BCCA (CA48646)	Mr. Parihar files a second application for an extension of time to file and serve the notice of application and application book for leave to appeal.
February 15, 2023	BCCA (CA48646)	Justice DeWitt-Van Oosten (in Chambers) grants an extension for Mr. Parihar to file his application book in his application for leave to appeal.

March 15, 2023	BCCA (CA48646)	Mr. Parihar files his application book for his application for leave to appeal.
March 23, 2023	BCCA (CA48646)	Mr. Parihar applies for a stay of proceedings and leave to appeal.
April 14, 2023	BCCA (CA48646)	At Mr. Parihar's request, and with consent of RBC, Justice MacKenzie adjourns the hearing of the application for leave to appeal and a stay of proceedings pending appeal to May 4, 2023.
May 4, 2023	BCCA (CA48646)	Justice Marchand dismisses Mr. Parihar's application for leave to appeal and a stay of proceedings.
May 8, 2023	BCCA (CA48646)	Mr. Parihar files an application to vary or cancel the May 4, 2023 CA Order.
May 17, 2023	BCCA (CA48646)	Mr. Parihar files an application for an extension of time to file an application book in his application to vary.
May 31, 2023	BCSC	RBC is granted an order for conduct of sale, which becomes effective on July 4, 2023.
June 12, 2023	BCCA (CA48646)	The application for an extension of time to file an application book is dismissed by Justice Willcock in chambers.
June 15, 2023	BCCA (CA48646)	Mr. Parihar applies to vary or cancel the June 12, 2023 CA Order.
September 5, 2023	BCCA (CA48646)	RBC applies to have Mr. Parihar declared a vexatious litigant under Rule 22(1).
October 11, 2023	BCCA (CA48646)	A division of the Court dismisses Mr. Parihar's application to vary or cancel the June 12 order of Willcock J.A., and dismisses RBC's application to have Mr. Parihar declared a vexatious litigant under Rule 22(1).
December 6, 2023	BCSC	Associate Judge (formerly Master) Bouck approves the sale of the property and orders that vacant possession be delivered to the purchasers by 12:00 p.m. on January 25, 2024 (the "Approval of Sale and Vesting Order").
December 7, 2023	BCSC	Mr. Parihar files a notice of appeal in the BCSC of the Approval of Sale and Vesting Order.
January 16, 2024	BCSC	Mr. Parihar seeks and is granted by Justice MacDonald an <i>ex parte</i> stay of the portion of the Approval of Sale and Vesting Order allowing RBC to apply for a writ of possession, expiring on February 15, 2024. There is no stay of the court-approved sale of the Property.
January 24, 2024	N/A	The sale of the Property is completed.
January 24, 2024	N/A	Mr. Parihar files a certificate of pending litigation.
February 2, 2024	BCSC	Mr. Parihar's application to extend the stay of the writ of possession portion of the Approval of Sale and Vesting Order is dismissed by Justice Chan (the "February 2, 2024 Order"). RBC's application to set aside the stay ordered on January 16 is granted, and the certificate of pending litigation filed is declared of no force and effect.

<i>February 7, 2024</i>	BCCA (CA49649)	Mr. Parihar files a notice of appeal of the February 2, 2024 order.
<i>February 14, 2024</i>	BCCA (CA49649)	Justice Willcock dismisses Mr. Parihar's application for a stay pending appeal.
<i>February 15, 2024</i>	BCSC	RBC obtains a writ of possession.
<i>February 20, 2024</i>	BCCA (CA49649)	Mr. Parihar submits an application to vary or cancel the February 14 order. (Note: it appears that he did not proceed with this, as he failed to contact the Court of Appeal Registry to schedule a hearing of this variance application.)
<i>April 29, 2024</i>	BCSC	RBC pays surplus proceeds of the sale of the Property into court.
<i>May 21, 2024</i>	BCCA (CA49649)	Mr. Parihar submits an application for an extension of time to file a factum, appeal record, and appeal book in his appeal of the February 2, 2024 Order.
<i>June 26, 2024</i>	BCCA (CA49649)	Justice Groberman dismisses this application and dismisses the appeal as abandoned ("June 26, 2024 CA Order").
<i>June 28, 2024</i>	BCCA (CA49649)	Mr. Parihar files an application to vary or cancel the June 26, 2024 CA Order.
<i>August 9, 2024</i>	BCSC	Without notice to RBC, Mr. Parihar applies for, and is granted by Gaul J., an adjournment of his appeal in the BCSC of the Approval of Sale and Vesting Order, which was scheduled for August 13, 2024.
<i>September 19, 2024</i>	BCCA (CA49649)	RBC applies for an order under Rule 22(1) declaring Mr. Parihar a vexatious litigant.