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(2)

ROYAL COURT

27th January, 1992 14.

Before: The Deputy Bailiff, and  
Jurats Gruchy and Vibert

Between:

GM

Plaintiff

And:

LM

First Defendant

And

BP

Second Defendant

And

MP

Third Defendant

And

FN

Fourth Defendant

And

JN

Fifth Defendant

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Decision of the Court on  
Application of the First  
Defendant to raise  
injunctions in the Order of  
Justice.

Reasoned Judgment to follow.

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Advocate G.R. Boxall for the plaintiff

Advocate R.G. Morris for the defendant

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**DEPUTY BAILIFF:** The learned Jurats are divided. Thus the  
decision of the Court is made by my casting vote.

By a majority and after long and anxious consideration, the Court grants the prayer of the informal summons of the first defendant and lifts injunctions A(i) and (ii) contained in the first Order of Justice dated 10th October, 1991, with the effect that the first defendant may re-enter and remain in the matrimonial home and may contact and communicate with the plaintiff. That does not, of course, mean that the first defendant has a licence to harm or molest the plaintiff. Nor must she contact or communicate with the plaintiff's colleagues or business associates in any form or manner adverse to him.

The Court intended to request an undertaking from the first defendant to that effect, such undertaking to be given in open Court this afternoon and thus to be equivalent to an injunction. However, the first defendant is not present, for reasons which we accept. Therefore, we reimpose injunctions to the same effect.

It is also to be noted that injunction A(iii) preventing the first defendant from damaging, hiding, retaining, disposing of, or in any way interfering with any belongings of the plaintiff will remain in force, as its lifting was not part of the prayer of the informal summons.

The second Order of Justice is not strictly before us, but by reason of our decision the first defendant must be regarded as being released from her undertaking to comply with injunction A(ii) in that Order of Justice.

That is as far as the Court is able to go at this stage. The Court is unable to deal with custody, care and control of the children. However, the intent of the majority of the Court is that the first defendant should resume at least joint care

and control of the children pending a decision of the Matrimonial Causes Division. The plaintiff has to consider whether, in the best interests of the children, he should remain in the matrimonial home. The Court also considers that Mr. and Mrs. C should now vacate the matrimonial home, but only after Counsel for the first defendant has given an undertaking to Counsel for the plaintiff that, as soon as may be thereafter, the first defendant will re-enter and remain in the matrimonial home.

This application was brought only by the first defendant. We point out, therefore, that the injunctions contained in the first Order of Justice against the second, third, fourth and fifth defendants remain in force. They will not be able, therefore, to visit the first defendant in the matrimonial home, either socially or to assist her with household chores or the care of the children.

The Court is in no doubt that its majority decision leaves behind it a very delicate position where both parents have equal rights to the matrimonial home and to the children, pending further order of the Matrimonial Causes Division. We must warn both parties that they must refrain from any conduct of a hostile or provocative nature. They must be on their very best behaviour. Any failure to do so will certainly be a factor to be taken into account by the Matrimonial Causes Division.

n.b. no authorities.