

**THE EASTERN CARIBBEAN SUPREME COURT**

**IN THE HIGH COURT OF JUSTICE  
DIVORCE**

**SAINT LUCIA**

**Case Number: SLUHMT2023/0155**

**BETWEEN:**

**DD**

Petitioner

-and-

**EF**

Respondent

**Before the Honourable Mr. Justice Alvin Pariagsingh**

**Appearances:** Mr. David Francis for the Petitioner  
Ms. Mertle John for the Respondent.

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2024: November 21  
November 29  
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**JUDGMENT**

**Respondent's application for Ancillary Relief filed on 6 September 2024.**

[1] **PARIAGSINGH, J** : - On 11 September 2023, the Petitioner filed a petition in this Court for a divorce. The Respondent contested the petition by filing her answer on 27 October 2023. On 14 June 2024, a decree nisi was granted based on the facts outlined in the Answer, which was subsequently amended. On the same day, by consent, an order was made regarding the child of the family (RD) as follows:

**"AND IT IS ORDERED BY CONSENT that:**

1. The parties are granted joint custody of the child of the family, namely RD, born on 9 June 2018, with primary care and control awarded to the Respondent/Mother and liberal access to the Petitioner/Father, to be determined between the parties;



2. The parties shall jointly share all financial obligations for the child of the family, including living, medical, dental, optical, educational and any other expenses until he reaches the age of 18 or completes tertiary education, whichever is later; and
3. Liberty is granted to both parties to apply to vary terms [1] or [2] in the event of a change in circumstances."

**THIS COURT DECLARES** that it is satisfied that the only child of the family to whom section 41 of the Divorce Act 1973 applies is RD, born on 9 June 2018, and that the arrangements for his welfare have been made and are satisfactory."

- [2] On the same day, directions were issued for obtaining a valuation of a parcel of land owned by the parties, which is subject to a loan. This direction was based on the likelihood of the parties reaching a compromise on the property issue and entering into a consent order to conclude proceedings. In the absence of such an agreement, it was ordered that all ancillary matters would be adjourned to a judge in chambers upon application by either party.
- [3] The parties failed to reach an agreement. On 6 September 2024, the Respondent filed the present application, seeking to resolve the property issue and to revise the consent order relating to the child.

## **CUSTODY**

- [4] In her affidavit, the Respondent expressed satisfaction with joint custody but stated her willingness to grant access only under certain conditions regarding maintenance.
- [5] The Petitioner, in his affidavit in response, asserted that due to his current financial situation, he was unable to assume custody of the child. He also highlighted the hardship that he and the child would face, as he would need to use public transport to take the child to school, given that his vehicle is out of service.
- [6] The Respondent's affidavit contained highly prejudicial information, the source of which was unspecified. This included references to a current prosecution and insinuations regarding the Petitioner's involvement, suggesting her fear of reprisal action was

legitimate. In my view, the inclusion of such information was ill-advised and inappropriate. Assuming the information to be accurate, it should have been presented with greater discretion, considering the pending criminal proceedings in which the Petitioner is not a party. The disclosure of sensitive details about the prosecution or its witnesses was highly regrettable.

[7] The purported fears of the Respondent are based on unsubstantiated assumptions or information regarding the Petitioner's alleged connection to the prosecution. As no evidence supports these claims, I have attached no weight to the allegations in her affidavit.

[8] There is no justification to revisit the consent order granting joint custody of the child.

[9] Term 1 of the consent order made on 14 June 2024 therefore stands.

## **MAINTENANCE**

[10] The Respondent seeks an order requiring the Petitioner to pay \$850 per month for the child's maintenance, replacing the existing agreement that expenses be shared equally. However, she has provided no basis for this sum. While her affidavit details her expenses, it does not outline the child's specific costs, and there is no explanation as to how the figure of \$850 was determined.

[11] The Respondent contends that the Petitioner has not made timely contributions, citing delays in payments for a dentist bill and school supplies. She also asserts that she would notify the Petitioner of any additional expenses beyond \$850.

[12] The Petitioner states that his employment was terminated on 8 October 2024, leaving him without an income. He is willing to comply with an order requiring \$600 per month, which he believes is manageable under the circumstances.

[13] Given the lack of evidence regarding the child's actual expenses, I must rely on the Petitioner's stated financial capacity. Neither party pursued cross-examination.

[14] I therefore set aside term 2 of the consent order and substitute it as follows:

**Maintenance Order**

1. Commencing on the last working day of November 2024, and continuing monthly thereafter until the child reaches 18 years of age, completes tertiary education, or until further order of the Court, the Petitioner/Father shall:

1) Pay \$600 per month to the Respondent/Mother for the maintenance of the child; and

2) Reimburse half of all medical, dental, optical, and educational expenses of the child within 14 days of receiving either an invoice or a receipt from the Respondent/Mother.

**PROPERTY**

[15] The Respondent contends that the land jointly owned by the parties (Block and Parcel 1456B 1388) was purchased via a joint mortgage, following the consolidation of their debts. She claims that she contributed \$44,387.27 while the Petitioner contributed \$47,124.26, and that each party has since paid \$14,075.39. She proposes retaining the property for the benefit of the child.

[16] The Petitioner denies that the loan is in arrears and proposes selling the property, using the proceeds to clear the debt, and equally sharing any remaining liability.

[17] Currently, the property's value is less than the outstanding mortgage balance. Based on the loan statement, it is clear the individual debts of the parties were consolidated into a joint liability secured by the mortgage. The property, a joint marital venture, is equally owned, including equal liability for the mortgage.

[18] I determine that a fair resolution requires selling the property at a minimum valuation of \$181,000, as assessed in the Respondent's valuer's report dated 13 June 2024. Proceeds from the sale shall be applied to the mortgage, with any remaining balance to be equally shared. The Registrar of the High Court shall oversee the sale, with leave for either party to make an offer.

### **COSTS**

[19] As both parties have enjoyed partial success in this application, each shall bear their own costs.

### **ORDER**

[20] For the reasons above, I make the following orders:

1. Term 1 of the consent order made on 14 June 2024 shall remain.
2. Term 2 of the consent order made on 14 June 2024 is set aside
3. In respect of the maintenance of the child:

1) Commencing on the last working day of November 2024, and continuing monthly thereafter until the child reaches 18 years of age, completes tertiary education, or until further order of the Court, the Petitioner/Father shall:

1. Pay \$600 per month to the Respondent/Mother for the maintenance of the child; and
2. Reimburse half of all medical, dental, optical, and educational expenses of the child within 14 days of receiving either an invoice or a receipt from the Respondent/Mother.

4. In respect of the property (Block and Parcel 1456B 1388) of the parties:

1) The property of the parties shall be sold by private treaty, with proceeds applied to the mortgage and any remaining balance on the loan or surplus equally shared between the parties

2) The sale of the land is to take place by private treaty with leave to either party to make an offer.

3) The Registrar of the High Court shall have conduct of the sale.

4) The Registrar of the High Court is also authorized to execute any document on behalf of either party to give effect to the sale.

5) The sale is also to be on notice to the mortgagor.

6) For the purpose of the sale either party or the Registrar may apply to the Court for further directions

5. Each party shall bear their own costs of this application.



**Alvin Pariagsingh**  
**Judge**

**By the Court,**

  
**Registrar**