

THE EASTERN CARIBBEAN SUPREME COURT
SAINT VINCENT AND THE GRENADINES

IN THE HIGH COURT OF JUSTICE

SVGHMT2021/0044

BETWEEN

CAMAL PREDDIE

PETITIONER

AND

CHRISSA PREDDIE

RESPONDENT

Appearances:

Mr. Duane Daniel with himMs. Chanté Francisfor the petitioner.

Mr. Grenville Johnfor the respondent

2022:Jun. 20& 24
Jun.27

REASONS FOR ORAL DECISION

INTRODUCTION

[1]**Henry, J.:** This is an application by Mrs. ChrissaPreddie ('the wife') for an order that Camal Preddie ('the husband') pays to her such monthly or weekly sum for herself and the two minor children of the family as maintenance pending suit and maintenancerespectively. The parties were wed on June 26th 2010. Unhappy differences arose as a consequence of which Mr. Preddie petitioned¹ the Court for a divorce. A decree nisi was pronounced on 8th November 2021.

[2] Mrs. Preddie complains that her husband has not provided any financial support for her and the

¹By petition filed on 1st July 2021.

children since he filed the petition. She lost her job with the government in November 2021. She claims² that she has depleted her savings and has had to rely on the goodwill of friends and family for her and the children's survival. She has recently secured employment as a legal clerk (with effect from May 3rd 2022) but is unsure how long it will last. She supplied no details of the terms and condition under which she is employed and did not disclose her income from that job. She indicated that her monthly expenses total \$1768.00. She seeks a maintenance award of \$700.00 monthly in respect of the two children and \$1000.00 per month in her case.

[3] Mr. Preddie opposes his wife's application for spousal support. He stated that he can only afford to pay \$400.00 for his share of the children's maintenance each month. He indicated that he is prepared to contribute equally to their educational and medical needs. The wife's application for maintenance for herself pending suit is granted in respect of the period of her unemployment. Mr. Preddie is directed until further order of the court, to contribute equally to the children's maintenance.

ISSUES

[4] The issues are whether Camal Preddie should be required to pay: -

1. spousal maintenance to Mrs. Preddie pending suit; and/or
2. maintenance in respect of the minor children of the family.

ANALYSIS

Issue 1 – Should Camal Preddie be required to pay spousal maintenance to Mrs. Preddie pending suit?

[5] Mrs. Preddie did not indicate in her filings under which provision she has launched her application. This is a requirement when such applications are made to enable the opposing party to appreciate the case which is made against him/her.³ Be that as it may, this procedural irregularity is not fatal to the application. In her oral submissions she signaled that her application for maintenance pending suit

² In her supporting affidavit filed on 20th April 2022.

³ Jonathan Lesfloris v Glenda Lesfloris SLUHC VAP2015/0018, unreported (delivered December 13th 2019).

is made pursuant to section 30 of the Act. **The Matrimonial Causes Act ('the Act')**⁴ empowers the Court to make an order for maintenance pending suit under that provision.

[6] In considering this application, the Court must have regard to all of the circumstances including the parties' respective ages, financial needs, obligations, responsibilities, incomes, earning capacities, property and other financial resources. The Court will also factor in their respective contributions to the family's welfare, any physical or mental incapacity of either or both of them, the duration of the marriage and the standard of living enjoyed by the family before the marriage broke down.

[7] The Preddies are relatively young and enjoy a typical working-class lifestyle. Mr. Preddie is 38 years old while Mrs. Preddie is 41. Neither claimed nor appeared to suffer from any physical or mental disability. The husband is self-employed as an auto mechanic technician. Prior to the breakdown of the marriage, the wife was employed as a clerk within the service of the Government of Saint Vincent and the Grenadines. During that time, the parties each contributed to the needs of the family on an equitable and harmonious basis. The wife served as homemaker and primary caregiver for the children. The husband assumed responsibility for the rent of \$500.00 and the electricity and water bills. It emerges during his testimony that the water and electricity connections are shared with his business. The internet and telephone bills have been disconnected as he claims that he cannot afford to keep the payments current.

[8] The younger of the children attends a pre-school operated by the wife's step-mother. A monthly fee of \$300.00 is payable for that service. The husband insists that that figure can be reduced to \$100.00 if the child is transferred to a pre-school which is closer to home. The wife resists such a transfer. The older child attends a nearby primary school where a school fee of \$200.00 per term is payable. Both parties are happy with present arrangements for his schooling.

[9] Mrs. Preddie itemized⁵ her monthly expenses as follows: -

Groceries	- \$600.00
Bed bill	- \$100.00
Gas	- \$43.00

⁴ Cap. 239 of the Laws of Saint Vincent and the Grenadines, Revised Edition 2009.

⁵ In her affidavit in reply filed on 28th April 2022.

Primary school fee	- \$75.00	
Pre-school fee	- \$200.00	
Children clothing	- \$250.00	
Doctor	- \$160.00	
Transportation	- \$100.00	
Telephone	- \$40.00	
Toiletries	- <u>\$100.00</u>	
Total		<u>\$1668.00</u>

[10] Her previous affidavit⁶ included an additional \$100.00 attributable to groceries for her and the children. She asserted that Mr. Preddie earns approximately \$8,500.00 per month. He denied this. The wife explained that this information came to her knowledge earlier in their marriage when she used to assist him with bookkeeping for the business and also in formulating proposals to financial institutions to secure business loans.

[11] For his part, Mr. Preddie claimed that he earned a total of \$5,466.15 for the 4 months from January to April 2022 – an average of \$1366.54 per month. He insisted that his monthly wages vary depending on the nature and amount of work he is contracted to supply in any given period. He was adamant that he is unable to pay Mrs. Preddie \$1000.00 as maintenance, in addition to meeting his maintenance obligations towards the children and making the utility charges.

[12] Mr. Preddie exhibited a number of bills for utility services all reflecting outstanding arrears. He explained that he is currently undergoing financial struggles which militate against the timely payment of those charges. Mrs. Preddie stated that he has a penchant for waiting several months before clearing the arrears and that they do not demonstrate an incapacity to pay.

[13] Mrs. Preddie averred that because she was unemployed between December 2021 and May 3rd 2022 she had to use up all of her savings and received no financial support from Mr. Preddie. He admitted that he had given her no monies to purchase any groceries or clothing items for the children or to assist her with their medical expenses.

[14] During the marriage the parties acquired a parcel of land which is registered in the husband's sole

⁶ Filed on 20th April 2022.

name, three motor vehicles also registered in his name and a number of household chattels. They are the subject of a summons filed⁷ by the petitioner for other ancillary relief. No date has been fixed for hearing of that application. Due to the limited information supplied by the parties regarding such matters I exclude them from detailed scrutiny for present purposes.

[15] Mrs. Preddie submitted that Mr. Preddie has willfully neglected to maintain her and the minor children of the family. This is the main pillar of her application for maintenance pending suit. She submitted further that she has been married to Mr. Preddie for 11 years and made significant contributions to the family's welfare. She argued that the court should consider that the children's welfare is of paramount importance in matrimonial proceedings. She contended that the Court should disbelieve Mr. Preddie, accept her testimony and make the awards sought.

[16] Mr. Preddie argued that he has not willfully neglected to provide support for Mrs. Preddie. He invited the court to draw adverse inferences against Mrs. Preddie for her failure to disclose how much she currently earns. In this regard, he relied on **J v J**⁸. He submitted that in order to establish willful neglect by a spouse an applicant needs only establish that the spouse has failed to provide reasonable maintenance for her. He cited **Morton v Morton**⁹, **Scott v Scott**¹⁰, **Tulip v Tulip**¹¹, **Weatherly v Weatherly**¹² and **Earnshaw v Earnshaw**¹³.

[17] The principles that guide the court when considering an application for ancillary relief involving sharing

⁷ On 28th December 2021.

⁸ [1955] 2 ALL ER 85.

⁹ [1942] 1 ALL ER 273.

¹⁰ [1951] 1 ALL ER 216.

¹¹ [1951] 2 ALL ER 91.

¹² [1929] 142 LT 163.

¹³ [1896] P. 160.

of matrimonial assets are articulated in **Stonich v Stonich**¹⁴, **White v White**¹⁵ and **Miller v Miller, McFarlane v McFarlane**¹⁶. The court's primary concern is achieving fairness between the parties having regard their conduct throughout the marriage, their means and their expressed or implied intentions, among other things. The question for this court is what would be fair to the parties in all of the circumstances?

[18] My findings of fact and the outcome of this case are largely dependent on the parties' credibility or deficits in that regard. I found Mrs. Preddieto be truthful. Mr. Preddie struck me as not being entirely forthright. He was discredited during cross-examination when he asserted that he pays a licence fee of \$350.00 in respect of his motorcycle yet could not say whether the fee has been paid for the previous 3 years. His credibility was further tarnished when he said that the electricity charges for his business are not reflected in the bills presented to the court and in the same breath acknowledged that there is one electricity bill for the home and business combined. Accordingly, where his account differs from Mrs. Preddie's, I accept hers.

[19] I am skeptical that Mr. Preddie earns just over \$1,000.00 per month. I have no difficulty understanding that the business and the family have regular monthly ongoings. That is part and parcel of managing both. Mrs. Preddie was quite clear and credible when she recounted the conversations she had with him regarding his rates for the several services he offers at his auto body repair business. He accepted that he had not supplied the court with any such data. Such details would have been quite helpful. I reject Mr. Preddie's assertions that he is struggling to make ends meet.

[20] Although Mrs. Preddie is now gainfully employed, this was not the case for a period of 6 months after she lost her job with the government. It cannot be fair and equitable that she had to deplete her savings to take care of herself and the two children without assistance from Mr. Preddie. She should not have had to bear that burden on her own, within the context of a marriage where she made meaningful contributions to the family's welfare and standard of living and where the

¹⁴British Virgin Islands Civil Appeal No. 17 of 2002.

¹⁵ [2001] UKHL 54.

¹⁶[2006] ALL ER (D) 343; [2006] UKHL 24.

husband has the means to assist her. Under the law, parents have a joint duty commensurate with their abilities to care for their dependent offspring.

[21] I am satisfied on a balance of probabilities that Mr. Preddie was quite capable of contributing to Mrs. Preddie's personal financial needs during that 6-month period yet failed to do so. Mr. Preddie could and should have assisted her during that time. I am equally satisfied that Mrs. Preddie is no longer in need of such support since she is gainfully employed. I therefore make no order for maintenance pending suit for the period after May 3rd 2022 but do so in respect of the previous 6 months.

[22] Without documentary proof of the earnings and outgoings of either party for the periods under consideration, I am left to take the middle road in assessing a fair award to Mrs. Preddie for spousal support. She seeks \$1000.00. However, her own testimony revealed that her monthly outgoings during that time did not exceed \$500.00. I consider that while she should not have had to exhaust her reserve of funds that the exigencies of life exact from each adult a duty to prepare as far as possible for unexpected twists and turns along life's path. I consider that a fair award to her as spousal support for those 6 months is \$300.00 per month. I therefore order that Mr. Preddie pays to her the sum of \$1,500.00 as maintenance pending suit for the period December 1st 2021 to April 30th 2022 being \$300.00 per month.

Issue 2 – Should Camal Preddie be required to pay maintenance in respect of the minor children of the family?

[23] Mrs. Preddie submitted that her application for maintenance of the minor children of the family is made pursuant to section 36 of the **Act** and section 12(2) of the **Law of Minors Act**¹⁷. Section 36 of the **Act** authorizes the making of an order for such maintenance during the currency of a marriage if a party fails to adequately provide for his/her spouse's or minor children's reasonable needs. The **Law of Minors Act** empowers the Court to make orders for a non-custodial parent to make periodical or lump sum payments to the other parent for a minor's benefit.

¹⁷Cap. 232 of the Laws of Saint Vincent and the Grenadines, Revised Edition 2009.

[24] The Court may make an order¹⁸ for the maintenance of any child of the family. Among the factors to be considered are the child's financial needs, his/her income, earning capacity, property and other financial resources, any physical or mental incapacity, the standard of living enjoyed by the family before the breakdown of the marriage and the manner in which the child is being or is expected by the parents to be educated or trained¹⁹.

[25] There is no evidence that the children own property or assets or suffer from any medical or mental impairment. The parties accept that both parents are responsible for the children's reasonable needs. I am satisfied on a balance of probabilities that Mr. Preddie made no contributions towards the children's food and clothing needs between December 2021 and June 24th 2022. In fact he admitted this. For shouldering those responsibilities on her own, Mrs. Preddie is entitled to be reimbursed a sum equivalent to 50% of the total amount reasonably expended. At the same time, Mr. Preddie must be credited for wholly covering their rent and certain utilities. Half of those payments are offset against the maintenance awards made to Mrs. Preddie for each child.

[26] I find that in respect of each child, their food, clothing and accommodation needs can adequately be met in the sum of \$650.00 representing loosely a food component of \$300.00, clothing of \$100.00 and \$250.00 towards housing (inclusive of utilities). In my estimation, each parent is capable of contributing 50% or \$325.00. The parents are to contribute equally to the minor children's medical and educational needs. For the avoidance of doubt, where school fees are payable for either child, those sums are additional to their regular maintenance. Mr. Preddie must therefore pay to Mrs. Preddie 50% of such fees on top of any global sum payable by Mr. Preddie for monthly maintenance.

[27] Accordingly, it is ordered that in respect of maintenance of the children of the family for the period December 1st 2021 to June 30th 2022, Mr. Camal Preddie shall pay to Mrs. Chrissa Preddie as his contribution towards their maintenance, the sum of \$3,430.00 being \$1715.00 for each child representing the monthly figure of \$245.00. It is further ordered that as long as the family shares the present accommodation and provided that Mr. Preddie continues to make full payments for

¹⁸Pursuant to section 31(1)(d) and (31(2) of the Act.

¹⁹Section 34(2) of the Act.

electricity and water charges for the family unit, he shall from July 1st 2022 and until further order pay to Mrs. Chrissa Preddie the monthly sum of \$245.00 being his contribution toward each child's maintenance, such payments to be made on the last working day of each month, and 50% of all education and medical expenses as they become due and payable.

[28] In the event that Mrs. Preddie elects to take up residence elsewhere, Mr. Preddie shall pay to her as maintenance for each child of the family, the monthly sum of \$325.00 until further order. Mr. Preddie shall in addition pay to Mrs. Preddie within 14 days of presentation of receipts or invoices for such expenditure, one half of the cost of medication, school supplies and other education fees and expenses.

Costs

[29] In regular civil proceedings which are conducted on a purely adversarial basis, costs are generally awarded to the successful party. In matrimonial proceedings, the principle on which costs are awarded is that neither party is successful. Each party usually bears his or her own costs. It is therefore ordered that Mr. and Mrs. Preddie shall each bear his or her own costs.

[30] I wish to express thanks to counsel for their written and oral submissions.

**Esco L. Henry
HIGH COURT JUDGE**

By the Court

Registrar

