

**EASTERN CARIBBEAN SUPREME COURT
IN THE HIGH COURT OF JUSTICE
(CIVIL)**

**COMMONWEALTH OF DOMINICA
DOMHMT2008/0012**

BETWEEN:

CLEVETTE SHARPLIS

and

SIMON SHARPLIS

Petitioner

Respondent

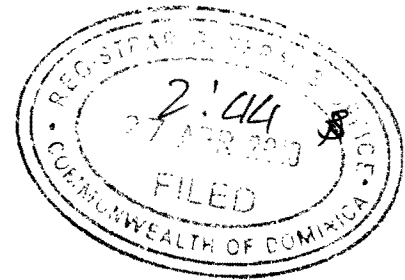
Before: The Hon. Justice Brian Cottle

Appearances:

Mrs. Singoalla Blomqvist Williams for the Petitioner
Mr. Julian Prevost for Respondent

JUDGMENT

[2010: February 12]
[27th April 2010]



- [1] **COTTLE J:** On 12th March 2008 the petitioner filed a petition for divorce. On 4th June 2008 the parties entered a consent order for maintenance pending suit. The order required the respondent to pay the petitioner \$1,200.00 per month as "maintenance pending suit" as from 31st May 2008 and on the 30th of each succeeding month "until further order."
- [2] A decree nisi was granted on 18th July 2008 and on the application of the petitioner, the decree was made absolute on 15th September 2008. On 11th September 2009 the respondent filed the present application seeking to have the consent order for maintenance pending suit varied. The petitioner also wants the order for maintenance varied but unlike the respondent she wants to have the sum for maintenance increased.
- [3] At the hearing of the application the court considered the evidence of both parties on affidavit and both were cross examined on the affidavits. Both counsel then sought leave to file written closing submissions. Leave was granted. It was only in her written submissions that counsel for the respondent alerted the court to the fact that the decree absolute had already been granted.
- [4] Obvious difficulties arise. Section 22 of the Matrimonial Cause Act 1973 permits the court to order maintenance pending suit. Such payments must end with determination of the suit. This petition has come to an end with the grant of the decree absolute. The order for payment pending suit cannot survive the date of determination of the suit.
- [5] Obviously, again, the petitioner ought to have had the matters of ancillary relief settled and a final order made before proceeding to obtain the decree absolute. This she failed to do.
- [6] The application to vary the consent order cannot be considered for the reasons I have explained. I make no order as to cost.



Brian Cottle
High Court Judge

