

THE REPUBLIC OF TRINIDAD AND TOBAGO

IN THE HIGH COURT OF JUSTICE
(Family and Children Division)

FH01922/2018

BETWEEN

P.A

PETITIONER

AND

G.A.W

RESPONDENT

Before the Hon. Madam Justice A. Ramkerrysingh

Date of Delivery: January 15th 2019

Appearances:

Ms Annabelle Sooklal for the Petitioner

Ms Amanda La Caille for the Respondent

DECISION

PROCEDURAL HISTORY

1. The Petitioner/Wife filed a petition for divorce on the 21st May 2018 relying on the unreasonable behaviour of the Respondent/Husband. Along with her petition, she filed her Application for Financial Relief with Evidence (*Form 8*) seeking orders for maintenance pending suit, property settlement and a periodical or lump sum payment.
2. The Husband in turn filed an Answer and Cross-Petition in which he alleged unreasonable behaviour on the part of the Wife. At the Directions Hearing on the 4th October 2018, mutual decrees nisi were pronounced.
3. On the 19th October 2018 the Wife filed an Affidavit in Support of her earlier application for interim maintenance. The Husband filed his Evidence of Financial Position (*Form 9*) and Affidavit in Response on the 16th November 2018 and on the 30th November 2018 the wife filed her Affidavit in Reply.

DISCUSSION & FINDINGS

4. Today's Application comes from the wife who seeks an order for Interim Maintenance for herself until the financial issues are determined.
5. The wife is asking for a monthly interim sum of \$10k which she estimates will meet her daily needs and wants the husband to pay the utilities of her current accommodation as he was accustomed to doing during the marriage as well as to continue paying her car loan and cost of petrol and repairs. She is also desirous of the husband continuing to meet her medical and life insurance premiums.
6. Both Attorneys have advanced compelling arguments on behalf of their respective clients.

7. The wife is employed by a real estate agency and works on commission that fluctuates but which within recent times has been in steady decline due to the economic downturn. Her last commission earned came from the only sale she had for the year 2018. She received \$12,700.
8. The husband refutes her statement as to the decline of her earnings and avers that during the marriage she earned approximately \$75K or more in commissions per sale and implies that the sudden decline since the breakdown is suspiciously coincidental.
9. The wife also contends that she had been renting out an apartment in the building complex owned by the husband. The rental income derived therefrom was \$5000 USD per month. The last tenant vacated the premises in early December 2018 and in an effort to save her own expenditure in rental premises she made the decision to move into the apartment. The husband had been responsible for the outgoings attached to this apartment and she would like this to continue. She would undoubtedly prefer to have the premises rented and if the opportunity presents itself she would re-rent to another tenant.
10. She has a car loan, and is the holder of medical and life insurance policies all of which the husband had been responsible for paying on her behalf during the marriage. In fact, it is her evidence that during the first part of the marriage he habitually gave her a monthly sum of \$20,000 to run the household and pay bills. Later, he reduced this sum to \$10K and assumed responsibility for paying the bills and utilities.
11. Finally, the wife argues that the husband can afford to make these payments since he receives a monthly sum of over \$250k from his ownership of radio station [Redacted] which he shares with his adult children. He is also the owner of a five-storey apartment complex from which he derives a steady income and has no major debts.

12. The husband rejects the wife's contention that he is able to meet those demands for a number of reasons. Firstly, he claims that his income from radio station has been severely reduced within recent months having to compete with the free advertising facilities offered on social and electronic media platforms. He also cites economic downturn for the reduction of income.
13. I find it interesting that he relies on the same reason as the wife does, that is the decline in the economy to justify the lessening in income. Interesting because he does not accept that the economy has a similar impact on her earnings.
14. As to his sharing half of any income he receives from [Redacted] with his adult children, the husband avers that he holds 48% share of the radio station and the children are shareholders of the station and are entitled to (and he is obliged to) share the income with them.
15. Moreover, it is his evidence that as part of the property adjustment orders in previous matrimonial proceedings between himself and his first wife it was agreed that half of the shares of the station would be held in trust for the children of the first marriage (representing the first wife's half share of that company).
16. According to the husband the monthly income derived from the radio station is approximately \$73k per month half of which is held in trust for the children of the first marriage leaving him with \$36k.
17. As to the wife's car loan the husband is of the belief that it has been liquidated although [PA7] suggests otherwise. The true essence of this will no doubt be revealed in time and allowances made for adjustments if necessary. He also states that the wife continues to earn income by selling stock that he purchased for her to help her start a business and when the business failed she began and continues to sell off the stock from her apartment.

18. I have noticed some discrepancies in the husband's evidence as presented:

In his Form 9 the husband describes himself as "Retired", yet up to July of this year he is referred to as a "Businessman" in the Annual Return for M Limited of which he is a Director. His amended Financial Form revealed that he had originally omitted the income he receives from the radio station and National Insurance.

Ms La Caille submitted that the income from [Redacted] (i.e. the \$125k) is split among him and his children with him receiving only half that amount). That is to be fully ventilated at trial if necessary. In any event in his Form 9 he affirms that he receives a quarterly income of \$125k from the radio station which is the evidence I will consider at this time.

The husband has not provided figures for his personal expenditure.

19. From the budget prepared by the wife on her Form 8, I am prepared to allow the following items to be subsidised by the husband until the final orders are made to wit:

- i. Food - \$4000
- ii. Laundry/cleaning - \$200
- iii. Medical - \$1000 (reduced by \$2000)
- iv. General housekeeping - \$1000 (reduced by \$500)
- v. Car loan - \$3943
- vi. Petrol - \$500 (reduced by \$500)

I do not consider the other items essential for the time being and as she indicated that there has been a reduction in the real estate business she should have time to keep the home in good order without help for the time being.

20. It is therefore ordered that:

- I. The Respondent do pay to the Petitioner interim maintenance in the amount of \$10,700 per month with effect from the 31st December 2018 and continuing on the last day of each succeeding month until the final determination of the financial application.
- II. The Respondent shall pay the Petitioner's medical and life insurance policies until further order.

Allyson Ramkerrysingh
Judge