

2017

No. 258 FD

BERBICE

IN THE HIGH COURT OF THE SUPREME COURT OF JUDICATURE
FAMILY, DIVORCE AND MATRIMONIAL JURISDICTION
FAMILY DIVISION

BETWEEN:

CHANDROWTIE RAM nee SOOKWAH
Petitioner

-and-

GOVIND RAM
Respondent

The Honourable Justice Navindra A. Singh, Puisne Judge

Mr. Tejnarine Ramroop for the Petitioner

Mr. Arudranauth Goosai for the Respondent

Delivered January 5th 2018

DECISION

The Petitioner instituted this Action on August 3rd 2017, petitioning for a Divorce and applying for Division of Matrimonial Property.

The parties and their Counsel accepted that the matrimonial property had to be divided equally however the Respondent contended that the Petitioner was not being truthful about what matrimonial assets she had in her possession as a result a trial to determine the **value** of the matrimonial assets ensued.

The assets claimed to be matrimonial assets by the Respondent are as follows;

- I. Property held by Transport No. 269 of 2002 (in the names of Govind Ram and Chamdrowtie Ram, jointly)
- II. Property held by Transport No. 906 of 2009 (in the name of Govind Ram)
- III. Jewellery at Ram's Jewellery and Pawn Shop
- IV. Stocks at Ram's Auto Sales and Spare Parts
- V. 1 Toyota Fielder Wagon reg # PVV 4873
- VI. 1 Toyota Verossa reg # PRR 1699

The assets claimed to be matrimonial assets by the Petitioner are as follows;

- I. Property held by Transport No. 269 of 2002 (in the names of Govind Ram and Chamdrowtie Ram, jointly)
- II. Property held by Transport No. 906 of 2009 (in the name of Govind Ram)
- III. Jewellery at Ram's Jewellery and Pawn Shop
- IV. 1 Toyota Fielder Wagon reg # PVV 4873

The Petitioner contends that the stocks at Ram's Auto Sales and Spare Parts belong to her son Beesham Ram since he owns and manages that business.

The Petitioner claims that she is not the owner of the Toyota Verossa, reg # PRR 1699.

The Petitioner acknowledged ownership of the Toyota Fielder Wagon, reg # PVV 4873.

The Petitioner and the Respondent agreed to divide the real property as follows;

The Respondent will retain all rights, title and interest in and to the property held by Transport No. 906 of 2009 at an accepted value of \$15,000,000.00.

The Petitioner will be given all rights, title and interest in and to the property held by Transport No. 269 of 2002 at an accepted value of \$11,000,000.00.

It was accepted that the matrimonial assets were to be divided equally among the parties.

ISSUE I

What is the value of the jewellery at Ram's Jewellery and Pawn Shop?

FACTS

The Petitioner's testimony was replete with inconsistencies however she accepted that the report to the police of the store being robbed in 2012 was that the value of the jewellery stolen was \$15,000,000.00

She testified that all of the jewellery that was stolen was recovered.

She further testified that the business improved after she took over in 2015.

She testified that she paid \$100,000.00 in taxes for the the jewellery business and the auto parts business for the year 2016 which clearly shows that there were not a

lot of sales in 2016 and therefore the stock would not have diminished much from then to the filing of this Action.

The Petitioner by her own testimony demonstrated that the valuation of the jewellery purportedly done by Mr. Khemraj cannot be relied upon. In fact the Court does not believe that Mr. Khemraj examined the jewellery at all.

Navindra Ram testified that at the time that the jewellery store was robbed, indeed \$15,000,000.00 worth of jewellery was stolen but \$10,000,000.00 worth of jewellery was left therefore there was \$25,000,000.00 worth of jewellery in stock.

ANALYSIS

The Court does not believe the Petitioner's testimony with respect to the value of the jewellery stock. The Court further believes that Mr. Khemraj prepared a falsified valuation of the jewellery in the store and upon receiving that valuation the Petitioner knew or ought to have known that the valuation was inaccurate and false.

The Court accepts the testimony of Navindra Ram that the value of the jewellery stock in 2012 was \$25,000,000.00.

Taking this as the value in 2012 and the Petitioner's testimony that from 2015 business improved coupled with the fact that based on the income tax paid for 2016 there must have been less than \$600,000.00, (since the taxes were for two

businesses), the Court finds that at the very least the store must still have at least \$25,000,000.00 worth of jewellery in stock.

CONCLUSION

The Court finds that the Petitioner is in possession of at least \$25,000,000.00 worth of jewellery which are matrimonial assets and therefore the Respondent is entitled to the sum of \$12,500,000.00 representing the value of his share in the said jewellery.

ISSUE II

Does the stock in the auto spares store constitute matrimonial property?

FACTS

The Petitioner claims that the auto spares store belong to her son Besham Ram.

She testified that the business was registered in her name about 4 years ago and she bought \$2,000,000.00 worth of stocks for the store.

At that time she put Navindra Ram to operate the store.

She further testified that she declares taxes on the business and pays the income tax on the business.

Navindra Ram testified that he managed the shop up to 2015 at which time his mother, the Petitioner, forced him out and put his brother to manage the shop.

Besham Ram testified that he stocked the store in 2015 with his own money.

He testified that his mother declares income tax on the business and that they paid \$10,000.00 in taxes on the business in 2016 though he made about eight hundred and something thousand dollars.

ANALYSIS

The Court finds that Besham Ram was a witness of convenience, whose sole purpose was to try to convince the Court that his mother, the Petitioner, had no interest in the spare parts store.

Based on the Petitioner's testimony the Court finds that the business and its assets belong to her and as such are matrimonial property.

CONCLUSION

The Court finds that the stocks in the auto parts store are matrimonial assets.

ISSUE III

What is the value of the stock in the store?

FACTS

The Petitioner testified that she did not know the value of the stock in the auto spares store.

Besham Ram's evidence is that the store has stocks of about \$4,500,000.00 and indebted to suppliers in the sum of about \$2,100,000.00.

Navindra Ram testified that during the time that he was in charge of the store he had \$10,000,000.00 worth of stocks and debts of about \$2,000,000.00.

ANALYSIS

The Court finds that the discrepancies in the testimonies of the Petitioner and Besham Ram makes their evidence unreliable.

The Court accepts the testimony of Navindra Ram that up to the time that he was managing the business the net worth of the business was \$8,000,000.00.

CONCLUSION

The Court finds that the Petitioner is in possession of at least \$8,000,000.00 worth of stocks that can be subject to equitable distribution as matrimonial assets and therefore the Respondent is entitled to the sum of \$4,00,000.00 representing the value of his share in the said stocks.

The Court finds that there was insufficient evidence to show that the Toyota Verossa motor car reg # PRR 1699 is a matrimonial asset.

The Court accepts the Petitioner's value of the Toyota Fielder Wagon reg # PVV 4873 as \$1,950,000.00.

The total value of the assets to be equitably distributed is \$60,950,000.00

In the circumstances the Court orders that the Respondent do retain all rights, title and interest in and to the property held by Transport No. 906 of 2009.


The Court further orders that the Petitioner be given all rights, title and interest in and to the property held by Transport No. 269 of 2002.

The Court orders that the Respondent is to sign and execute all documents facilitating the transfer of his rights and title in and to the property held by transport No. 269 of 2002.

The Court orders that the Petitioner is to bear the costs of the aforementioned transfer.

The Court further orders that the Petitioner pays to the Respondent the sum of \$15,000,000.00 representing his share in the remaining matrimonial assets taking into account that the Petitioner will bear the costs of the transfer of the real property held under Transport No. 269 of 2002.

Costs is awarded to the Respondent against the Petitioner in the sum of \$400,000.00.


Justice N. A. Singh