



Neutral Citation Number: [2020] EWHC 3006 (Fam)

Case No: FD13D05340

IN THE HIGH COURT OF JUSTICE
FAMILY DIVISION

Royal Courts of Justice
Strand, London, WC2A 2LL

Date: 4 November 2020

Before :

Mrs Justice Knowles

Between :

Akhmedova
- and -
Akhmedov & Ors

Claimant

Defendant

Tim Penny QC and Mark Belshaw (instructed by **PCB Litigation LLP**) for the **Claimant**
Unrepresented (instructed by **BCL Solicitors**) for the **Eighth and Ninth Respondents**
Oliver Assersohn (instructed by **Patron Law**) for the **Tenth Respondent**
Unrepresented (instructed by **Patron Law**) for the **Eleventh Respondent**

Hearing dates: **4th November 2020**

Approved Judgment

Judgment by **MRS JUSTICE KNOWLES**

1. This is the return date of the search order and forensic imaging order granted without notice by me against the tenth respondent, Temur Akhmedov [“Temur”] on 28 October 2020. The search order was served and successfully executed on 29 October 2020. It resulted in the seizure of 58 electronic devices, 47 of which appear to belong to Temur. Those devices appear to have been actively concealed from the wife, this court and Temur’s former solicitors.
2. This ruling should be read alongside the ruling I gave on 28 October 2020 at the without notice hearing, Neutral Citation Number: **[2020] EWHC 3005 (Fam)**.
3. Having reviewed the report of the supervising solicitor and correspondence between the parties, I am entirely satisfied that the search order was properly and conscientiously executed. I emphasise that Mr Assersohn, who represents Temur today, made no submission to the contrary. Temur’s position today about the manner in which the search order was executed is important given press reports about this matter.
4. Mr Assersohn invites me to adjourn the return date for consideration of the propriety of granting a search order in the particular circumstances of this case to the trial, which is listed to commence on 30 November 2020.
5. He acknowledges in his position statement that the matters raised by the grant of the search order and the background to the grant of that order are potentially of importance at trial, and submits that it is only fair that Temur has a proper opportunity to deal with them. He asserts that Temur did not intentionally breach any order.
6. He submits that, in assessing whether or not there has indeed been a breach of this court’s orders for disclosure and for the delivery up of electronic equipment and passwords to cloud accounts, and the extent of any breach, will turn on the analysis which is due to be conducted by Aon, the independent forensic computer consultants in this case. He submits to me that it requires to be established that the devices seized from Temur’s flat fell within the definition of devices which were in Temur’s possession, power, custody or control, and which were currently in use or had been used by him since 1 January 2013.
7. He makes the point that it has not been possible, given that the trial is advancing upon all of us at pace, for those who represent Temur to set out the position now, and that appropriately the parties’ efforts have been directed towards agreeing the terms of the protocol to allow for proper examination of whatever relevant material is discovered in Aon’s search of the seized devices. The spreadsheet I have seen this morning indicates that in excess of 80,000 documents have been discovered from just four devices. There are other devices, and I do not presently know the volume of the documents that will be discovered, some of which may be relevant to the issues that I have to try in November and December 2020.

8. I do not have a statement from Temur dealing with the matters before the court today, and I have already commented that it is for him to rebut the case that a search order was appropriately made.
9. Over the course of the next three weeks, the documents captured on these devices will be the subject of an extensive examination. They will no doubt reveal if there are matters of relevance to the trial about to commence. If they do, and having been found on devices located in his apartment, the inference will be irresistible that Temur has not been entirely honest with this court in saying that he had no further electronic devices of relevance, a proposition posited by his solicitors in July 2020. Furthermore, it might be that the court will find that he breached his primary obligation to provide disclosure, and that he breached or frustrated each of this court's subsequent orders designed to secure compliance with his disclosure obligations.
10. The wife opposes the adjournment and seeks her costs. She is right to be angered by what has emerged from the application for a search order and its execution. In saying that, I make no determination on any alleged breach of my previous orders by Temur. Whilst I acknowledge the wife's position, it seems to me the priority is for both parties to prepare for trial and to grapple with what I suspect will be an extensive cache of material, a significant proportion of which may be relevant to the issues confronting me at the end of November 2020.
11. Fairness requires me to provide Temur with an opportunity to argue that I might have been mistaken to grant the search order, and I am going to permit him to do so at the trial. I do so because my findings about the necessity or otherwise for the search order have consequences for my assessment of his litigation conduct overall, and I may be asked to draw inferences from that conduct relevant to the main issues in the trial.
12. Those matters point, alongside sheer pragmatism given the rapidly approaching trial and the amount of work which the parties need to do to search and analyse what is discovered to be of relevance on the devices seized from Temur's flat, to this issue being adjourned in the interests of fairness.
13. I intend to ring-fence the wife's application for indemnity costs relating to (a) her costs occasioned by the search order application up to and including today and (b) the costs of the execution of the search order up to and including today. I will also ring-fence the costs of the disclosure process which I have approved today, and I will determine those questions of costs separately from the main costs in these proceedings. I will determine those matters having heard from Temur in evidence and having heard him cross-examined about his litigation conduct, such as is relevant to the issues before me at trial, one of which will be the grant of this search order.
14. I make it plain that the question of costs in relation to this search order is absolutely live and is ring-fenced from any other trial costs.
15. Thus, I adjourn to the trial date consideration of the appropriateness of the grant of the search order together with the wife's application for costs and for an interim payment on account.

16. I have today also approved a protocol for reviewing documents found on the seized electronic devices which is largely agreed between the wife's and Temur's legal representatives. That protocol provides for review to be undertaken in the first instance by the supervising solicitor's firm, Brown Rudnick LLP, a large international firm with the substantial resources necessary to conduct this exercise at speed and with efficiency. The involvement of Brown Rudnick is necessary given the limited time before trial and lessens the burden on Temur's solicitors who have only recently been instructed and who need to focus on preparation for trial. In my view, that is an entirely sensible course.
17. That is my decision.