

In the Royal Court of Jersey  
(Matrimonial Causes Division)

12th October, 1989

Before: Commissioner P.R. Le Cras, assisted by  
Jurats J.A.G. Coutanche and M.W. Bonn

Between:	J	Petitioner
And:	L	Respondent

Application for financial and other ancillary relief.

Advocate R.J. Renouf for the applicant petitioner  
Advocate P.C. Sinel for the respondent.

**JUDGMENT**

COMMISSIONER LE CRAS: The parties were married at the British Consulate in Bahrain on the 9th April, 1978, and there is one son of the marriage, P, who was born in July, 1978. The husband is now aged 45 and is a Civil Engineer by profession. The wife is now aged 54 and comes from India. Her family are Brahmins and this is her third marriage. She was employed as the respondent's maid, which is how they met initially, though for a time before the marriage she was a receptionist. She is an educated and cultured woman of good family.

It is quite clear that the difficulties in this marriage have arisen since the birth of P.

As to conduct we have heard evidence by both the parties and in assessing it we should say at once that we accept that the petitioner has proved the cruelty which he alleged in his cross-petition. However, we have to say that there is before us counterbalancing behaviour by him, not least what we regard as his extraordinary conduct in sending Miss 'B' away at the behest of the petitioner and then bringing her back without informing his wife. In circumstances such as these it is easy to see how the petitioner's suspicions became inflamed and these suspicions were in our view made worse by entirely different temperaments aggravated by such different backgrounds. It is quite clear to us that the parties now fail to understand or to communicate their own point of view to each other.

In the circumstances and taking into account all the allegations each of the parties make we are not prepared to say that the conduct of one or the other disentitles them to relief.

So far as the law is concerned counsel are agreed on this and we have taken their submissions into account.

Turning now to the financial circumstances, we take first those of the husband. At the moment he has no employment and all he presently has is the house, VE, and some shareholdings against which are charged what are now, for a family in this position, fairly substantial debts.

Both the parties desire and have asked for a final settlement in financial matters. Although we were minded at one point to order a continuing payment, we think it is fair to take this into account and we therefore approach our finding on that basis.

So far as the wife is concerned she presently has a job with the Bahrain Defence Forces which bears no real security as she is on a contract which is renewable for one year from the 12th December this year.

Returning to the husband's assets, we find it difficult to ascertain his precise assets. We are not clear how the respondent's affidavit of means shows, with expenditure about which he informs us such a recent reduction of the share values and at the same time so great an increase in net debt, which now stands at approximately £37,000. We find it at least equally unsatisfactory that the only guide to the value of the realty is the offer from the present tenants of £70,000, half payable in cash at once and half in three years' time with interest at 10 per cent per annum. Nonetheless, in view of the expressed wishes of the parties we must do the best we can with the evidence which is before us.

We take into account that although the marriage was a short one and has been unhappy for a number of years, nonetheless the petitioner bore a son at the advanced age of 42; and, in our view, a number of problems of the marriage arise in direct consequence thereof. Although of good family she has, as we say, only her present contract of employment, uncertain in duration, to support her. The respondent on the other hand has approximately 20 years' working life quite probably with an increased salary from £14,000 per annum - his present expectation - to £18,000 per annum on his obtaining additional professional qualifications which he appears confident of achieving. We further bear in mind that both parties, and we are glad to see this, are agreed on the future education and upbringing of P. Our understanding is that he is to remain at school locally and that his father will be entirely responsible for his fees and maintenance there. Clearly the father must, whilst making proper provision for his wife, be placed in a position to do this.

Balancing the capital so far as we can and his potential income, it is clear to us that the petitioner should receive a substantial portion of the value of VE.

Taking all these factors into consideration therefore, we order, on the basis that £548 is still owed to the Co-op and that the £1,117.93 which was mentioned in the agreement of the 10th April, 1987, has been settled as stated therein, that the respondent pay the petitioner £27,500. We order that the respondent pay the £548 if not paid already by him to the Co-op. If the wife has paid it, it will of course be added to the award to her.

So far as the £550 claimed by the Legal Aid fund is concerned it seems to us that this is more a matter of costs and ought to be dealt with there. This capital sum - that is the £27,500 - will be charged on VE and will bear interest at 10 per cent per annum from today and will not be demandable for six months. If it has not been paid at the expiration of six months from today, then the petitioner may give three months' notice and interest will, after the six months period, be payable at 3 per cent above base rate. In addition the respondent will pay one air fare per annum for P to join his mother wherever she may be, this to continue while P is in full-time education.

Turning now to the other points on the summons the first was that custody of the child of the marriage should be granted to the petitioner and the respondent jointly. We order joint custody. The second paragraph concerned care and control and we order that care and control remain with the father and in connection with the care and control we order that the respondent will arrange for P to spend with his mother the Easter holidays, every other Christmas with access during the remainder of the Christmas holidays to his mother and three weeks every summer holidays.

The third application, that is that the respondent do make to the child of the marriage such periodical payments lump sum or sums or secure provision as the Court may think fit, is dealt with in our view by the father's undertaking which we note and accept to be wholly responsible for the maintenance and education of P and we order that this shall continue until he ceases full time education. Four and five we have in effect already dealt with.

Authorities cited

Article 29 (as amended) of the Matrimonial Causes (Jersey) Law, 1949.

Fitzgerald -v- Northcroft (1973) JJ 35.

Billot -v- Perchard and Chambers (1977) JJ 33.

Moignard -v- Campbell (1969) JJ 1095.

H -v- W (1981) JJ 133.

Urquhart -v- Wallace (1974) JJ 119.

James -v- Patterson (1980) JJ 125.

Wachtel -v- Wachtel C.A. (1973) 1 All ER 829.

