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IN THE SUPREME COURT OF THE STATE

OF WASHINGTON

In re:	)	
PERCASH RAMNATH,	)	Snohomish County Superior Court
Appellant,	)	Cause No. 13-3-00880-9
v.	)	
LING D. WANG	)	Supreme Court No. 91209-2
Respondent.	)	
_____	)	

BRIEF OF RESPONDENT

LING D. WANG

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I. Statement of the Case

The parties appeared for mediation and entered into a CR2A Property Settlement Agreement resolving all issues in their divorce on May 2, 2014. The trial date, which was originally scheduled for May 12, 2014, was continued at Appellant Ramnath's request by the trial court to August 26, 2014. Respondent Ling Wang's attorney prepared proposed final dissolution documents based on the CR2A agreement. Ramnath disputed portions of the proposed final documents. Pursuant to the terms of the CR2A Agreement, the parties participated in binding arbitration to resolve the disputed portions. The arbitrator, Mark Podrasky, issued his written arbitration decision on June 11, 2014. Respondent's attorney was on vacation and unavailable from June 16 to July 6, 2014. On June 19, 2014, Appellant Ramnath's attorney, Kathryn Abele, withdrew effective Jun 29, 2014.

On July 16, 2014, Appellant filed his Notice of Absence/Unavailability (CP 38-39), which Respondent's attorney received via U.S. mail on July 21, 2014. In this document, he stated he would be unavailable from July 31 to December 31, 2014. He did not state the reasons for his alleged unavailability or his intended whereabouts. On July 24, 2014, Respondent obtained an Order to Shorten Time *ex parte*, with prior notice to Appellant (via email and regular mail), to calendar a motion to present proposed final documents for entry on July 30, 2014. Appellant did not appear *ex parte* or object to the Motion to Shorten Time. Appellant was then served via email and regular mail with the

Motion for Presentation of Final Dissolution Documents. Appellant filed a Motion to Strike the presentation hearing on the grounds that the proposed final documents did not conform to the CR2A Agreement. Appellant did not appear for the hearing on July 30, 2014. Court Commissioner Lee Tinney denied the Respondent's motion to present final dissolution documents without prejudice (CP 37). Commissioner Tinney reserved the issue of terms given that Appellant did not serve the Respondent with timely notice of his Objection/Motion to Strike. Commissioner Tinney further ordered that Respondent's Motion for Presentation of Final Dissolution Documents could be presented at the trial date on August 26, 2014. Respondent mailed Mr. Ramnath a copy of July 30, 2014 decision via regular mail on July 30, 2014, as directed to by the court.

Respondent, Ling Wang, confirmed the August 26, 2014 trial date and served Appellant with copies of the Calendar Note for August 26, 2014 and Motion for Entry of Final Dissolution Documents via email and regular mail.

Respondent, Ling Wang, appeared at trial with her attorney on August 26, 2014. The trial date was confirmed and Appellant received written notice of the trial confirmation. Appellant did not appear for trial. Appellant did not request a trial continuance based on his alleged unavailability. The Honorable George Bowden took testimony at trial from Ms. Wang, considered the written and oral record, and dissolved the marriage. Judge Bowden appointed attorney Ruth Spalter as Court Commissioner Designee to sign the final dissolution documents and any other documents on behalf of Appellant that were necessary to transfer title between the parties pursuant to the Decree (CP 33-34). This

included three parcels of real property, retirement and investment accounts, vehicles, bank accounts, and stock owned jointly by the parties. Judge Bowden appointed Ms. Spalter as Appellant's designee because he anticipated that Appellant would refuse to sign any documents transferring title to Ms. Wang.

The Honorable Judge George Bowden specifically noted in his oral decision as follows: "*I did review a motion and declaration that he* [Mr. Ramnath] *filed, which indicated he would be unavailable today. The reasons for that unavailability from what I can tell are patently transparent and don't serve as good cause to postpone the trial. He could have at any time calendared that matter for a hearing and appeared to argue for a postponement of his trial date, but he knows that the trial date up until now has not been continued. The notice of trial date was sent by the clerk to him and all parties on May 1 of this year. He has had ample opportunity to arrange his work schedule, which is the one stated reason for his lack of appearance today so that he could have arranged to appear. I think there evidence that he failed to appear at the hearing that was calendared before the court commissioner as well.*" RP 10.

On July 21, July 22 and August 26, 2014 (the same day the Decree of Dissolution was finalized) Appellant sold a total of $155,339.10 in Computershare stock. Computershare issued three separate checks on those dates directly to Mr. Ramnath from the proceeds of the sales and mailed them to him. They were cashed by him shortly thereafter. This stock was held jointly by the parties, but had been awarded to Respondent, Ling Wang, pursuant to the terms of the May 2, 2014 CR2A Agreement and the Decree of Dissolution,

Exhibit A, Page 2, Section 1.K. On September 4, 2014, Respondent filed a Motion for Contempt. Appellant was served with the Motion for Contempt via email and regular mail. Appellant did not respond to the motion and did not appear at the show cause hearing. On September 22, 2014, the court found the Appellant in contempt of the CR2A Agreement and the Decree of Dissolution based on his sale of jointly held Computershare stock which was awarded to the Respondent, Ling Wang. Respondent was awarded a principal judgment in the amount of $155,339.10 against Appellant (CP 16-20).

On December 24, the Respondent obtained two Writs of Garnishment for bank accounts held in the name of the Appellant (CP 4-13). On January 14, 2015, Mr. Ramnath filed his Notice of Appeal. At the direction of this court, the Respondent was served with the Notice of Appeal via U.S. mail delivery on January 22, 2015.

II. Summary of Argument

There is no basis for direct review by the Supreme Court of the Writs of Garnishment that were filed in Superior Court on December 24, 2014. The Superior Court did not err in issuing the writs of garnishment to Mr. Ramnath's JP Morgan Chase Bank and Wells Fargo Bank accounts on December 24, 2014.

The additional relief requested in Petitioner Ramnath's brief; namely, that this court vacate/reverse the trial court's division of property and debt in the Decree of Dissolution of August 26, 2014, is not properly before the court, as this court previously ruled on June 9, 2015.

Respondent, Ling Wang, should be awarded attorney fees for purposes of responding to this appeal.

III. Argument

1. There is no basis for direct review by the Supreme Court of the Writs of Garnishment that were filed in Superior Court on December 24, 2014.

RAP 4.2(a) sets forth the limited types of cases which are subject to direct review by this court. Orders regarding Writs of Garnishment do not fall into this category. Appellant Ramnath has cited no other constitutional or statutory authority which would permit direct review by the Supreme Court of the writs of garnishment. For this reason, Appellant Ramnath's appeal should be dismissed.

2. The Superior Court did not err in issuing the Writs of Garnishment to Mr. Ramnath's JP Morgan Chase Bank and Wells Fargo Bank accounts on December 24, 2014.

RCW 6.27.020 allows the trial court to issue Writs of Garnishment in cases where the applicant for the writ has a prior judgment which is partially or wholly unsatisfied. The Respondent, Ling Wang, obtained a valid judgment on an Order of Contempt on September 22, 2014. At the time she sought the Writ of Garnishment, that judgment had not been satisfied. Mr. Ramnath was served with the Writ for Garnishment and had the requisite 20 days to respond or controvert the garnishment. He did not do so. Instead, he filed this Notice of Appeal on January 14, 2015.

3. The additional relief requested in Petitioner Ramnath's brief, namely, that this court vacate/reverse the trial court's division of property and debt in the Decree of Dissolution of August 26, 2014, is not properly before the court, as this court previously ruled on June 9, 2015.

The dissolution trial was originally scheduled for May 12, 2014, and was continued to August 26, 2014, at Mr. Ramnath's request so that the parties could attend a settlement conference. The parties attend the settlement conference and entered into a binding CR2A Agreement. The balance of the relief requested in Mr. Ramnath's appeal is based on his dissatisfaction with the CR2A settlement agreement that was entered into by the parties on May 2, 2014.

Mr. Ramnath is now asking this court to vacate/reverse the trial court's division of property, which it deemed fair and equitable based on the May 2, 2014 CR2A Agreement entered into by the parties. The trial court had broad discretion and proper authority to divide the property and debt under RCW 26.09.080 and dissolve the marriage.

Mr. Ramnath has engaged in numerous acts of intransigence, which has created unnecessary litigation costs and expense as follows:

A. Disputed drafting of final papers, necessitating an arbitration decision by Mark Podrasky, wherein Mr. Podrasky ordered on June 11, 2014, that Mr. Ramnath had until June 20, 2014 to pay Ms. Wang what he had

originally agreed to pay her, or she would either by awarded a judgment or an additional sum of $165,000 from his IBM 401K.

B. Filed his "Notice of Absence" from July 31 to December 31, 2014, not stating the reasons for his absence.

C. Disputed Ms. Wang's Motion to Enforce the CR2A Agreement before Commissioner Tinney on July 30, 2014, but did not appear for the hearing or state specifically what he disagreed with in the paperwork.

D. On the same day of the trial, he sold $19,299 in jointly owned stock awarded to Ms. Wang per the CR2A Agreement and the trial court's decision. In addition, on July 21, 2014, Mr. Ramnath sold 300 shares of jointly held stock in the amount of $57,870.05, and on July 22, 2014, he sold $78,170.05 worth of shares. These actions led to a Superior Court finding of contempt for violation of the terms of the May 2, 2014 CR2A Agreement and Decree of Dissolution on September 22, 2014 (CP 16-20), and the subsequent judgment of $155,339.10 which led to the Writs of Garnishment on December 24, 2014 (CP 4-13).

E. Mr. Ramnath has sold both parcels of real property awarded to him in the Decree. Proceeds from the sale of one parcel were interpleaded into the court registry due to his refusal to pay the judgment awarded to Ms. Wang. The proceeds were eventually transferred to Respondent Wang in June of 2015 pursuant to court order to fully satisfy the judgment awarded to her on September 22, 2014.

4. Respondent Ling Wang should be awarded attorney fees for purposes of responding to this Petition for Direct Review.

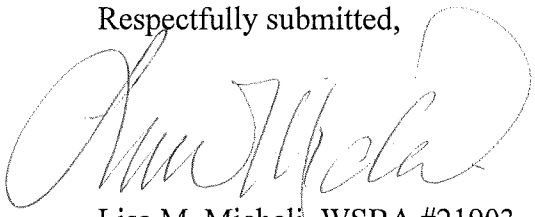
RAP 18.1(j) authorizes this court to award attorney fees where a Petition for Review is denied. If this court denies the Petition for Review, Respondent Wang should be permitted to submit an affidavit of her fees and expenses.

IV. Conclusion

There is no basis for direct review by the Supreme Court of the Writs of Garnishment ordered in Snohomish County Superior Court on December 24, 2014. The Snohomish County Superior Court did not err in issuing the Writs of Garnishment to Mr. Ramnath's bank accounts. All further relief requested in Mr. Ramnath's brief/appeal is not timely, as previously ruled by this court on June 9, 2015. Respondent, Ling Wang, should be awarded attorney fees under RAP 18.1(j) for the necessity of responding to this Petition for Direct Review.

November 6, 2015

Respectfully submitted,



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