BARBADOS

IN THE SUPREME COURT OF JUDICATURE

COURT OF APPEAL

Civil Appeal No. 13 of 2019

BETWEEN:

LARRY PIERRE TATEM **Appellant**

AND

KATHERINE TATEM **Respondent**

Before: The Honourable Sir Marston C.D. Gibson K.A. Chief Justice, The Hon. Kaye C. Goodridge, Justice of Appeal and The Hon. Margaret A. Reifer, Justice of Appeal (Acting)

2019: 25 July
19 August
25 September

2020: 3 June

Mr. Bryan Weekes in association with Sir Richard Cheltenham QC and Ms. Shelly Seecharan for the Appellant/Husband.
Mrs. Marguerite Woodstock-Riley QC in association with Mrs. Amanda Riley Jordan for the Respondent/Wife.

JUDGMENT

REIFER JA (ACTING)

INTRODUCTION

[1] This appeal raises issues as to whether a judge of the Supreme Court has the jurisdiction or discretion in contempt proceedings or otherwise to order a litigant to surrender his passports to the court pending the disposal of applications brought for contempt of court.

[2] In this case, **Worrell J** made such an order on 12 July 2019 and thereafter scheduled the applications for hearing on 24 October 2019. It is important to note that at the making of the impugned order the judge also informed the appellant/husband that he was free to make the necessary applications to the court should the passports be needed for travel.

THE APPEAL

[3] The appeal against **Worrell J**'s order was filed on 18 July 2019 together with a Certificate of Urgency of even date.

[4] The appeal sought the immediate return of the appellant/husband's passports, of which there were two, a Barbadian and a Canadian, on the following Grounds:

> "1. That the Learned Trial Judge erred in law, when having decided not to order that the Appellant be kept in custody, he imposed upon the Appellant, as a condition of his release from the Court's custody, that he surrender his passports to the Court ostensibly to ensure the Appellant's attendance in Court on the 24th day of October, 2019; the imposition of

such a condition being an unreasonable and impermissible exercise of his discretion pursuant to **Rule 106** of the **Family Law Rules, 1982**, given the fact:

a. That the Appellant had not refused to obey an order of the Court to appear, as distinct from not appearing pursuant to a summons issued by the Respondent wife, and
b. That **Rule 106(3)** of the **Family Law Rules 1982** gives the Court the discretion pending the disposal of a charge of contempt to order that a person be kept in custody or to order the release of a person either with or without security being required to ensure that the person appears in court in person on the hearing of the matter."

[5] On 24 July 2019 the appellant/husband filed an affidavit in support of the said appeal.

[6] On 9 August 2019 the appellant/husband filed a Notice of Application in what was effectively an interlocutory application to have "his Barbados and Canadian Passports (be) returned to him to facilitate his travel to Canada between the 24th day of August, 2019 and the 14th day of September, 2019".

[7] The said application was accompanied by the appellant/husband's affidavit and the Certificate of Urgency of his attorney at law.

[8] The urgency of the application is addressed in the following paragraphs of the affidavit of the appellant/husband:

> "2. I wish to travel to Canada on holiday with my partner to visit her daughter between August 24, 2019 and September 10, 2019. I, therefore, need my passports to be returned to facilitate my travel during that period.

3. The Court's confiscation of my passports has harmed my practice. I have been invited by clients to travel to Washington, DC with them for the purpose of providing advice on interior finishes and had to refuse this trip because of the Court's order. I have also been invited by a local client to attend a trade show in November, 2019, but my attendance is uncertain because I cannot travel without my passports.
4. On the 30th day of July, 2019 I filed an application in the High Court seeking an order that my passports be returned to me to facilitate my travel. However, I have not been afforded a hearing in the High Court despite the fact that my Counsel advises me and I verily believe that the Chief Justice of Barbados certified my application as urgent.
5. My Counsel has not been able to secure a hearing before the High Court and no reason has been provided for the refusal to assign a date.
6. I therefore, seek an Order from this Court permitting the return of my passport pending the hearing of my appeal which has been fixed for 24th September, 2019 ..."

[9] The affidavit of the appellant/husband's counsel of even date observes that the "Learned Trial Judge indicated orally at the time the Order was made that he would entertain any application made by the Appellant/Applicant to have his passports returned to him to facilitate overseas travel." He deposes further that his clerk was told "that no date would be assigned in the High Court because the Appellant/Applicant filed an appeal against the substantive order of the Court made on 12th July, 2019.

THE FACTUAL BACKGROUND

[10] These parties have a long and acrimonious history in both the High Court and Court of Appeal. It is important to outline some of this in order to set the

context in which the matter was heard and the order the subject of the appeal was made.

[11] The foundation stone of this matter was apparently laid when orders were made in this family proceeding in 2013 after the respondent/wife commenced proceedings with an application dealing principally with maintenance for herself and the then minor child of the marriage. The parties, who married in 1995, had separated in November 2012.

[12] The first order of the court, dated January 2013, was an Interim (Consent) Order for spousal and child maintenance. That order remains largely unsatisfied and has in large measure been the source of almost all of the litigation and much of the contempt applications. Thus, in 2019, **Worrell J** had before him the following:

1. Application dated 7 May 2013 to show cause for not complying with the order of **Chandler J** of January 2013;
2. Application dated 20 March 2014 to show cause for not complying with the Forthwith Order of **Kentish J** of 29 October 2013 and the Order of the Court of Appeal of 12 February 2014 affirming the order of **Kentish J**;
3. Application of 3 April 2018 to show cause for not complying with the order of **Worrell J** of 15 December 2017.

[13] It is not disputed that the appellant/husband has failed to comply with these orders and that his failure to attend court hearings has been most marked. It is also a matter of record that arrears of maintenance, computed in accordance

with the various orders for maintenance and costs, totalled a sum in the vicinity of $500,000.00. It is clear that counsel for the appellant/husband intends, but has not to date, challenged the quantum owed.

[14] With respect to his non-compliance, his position has remained that he has never willfully disobeyed the orders of the court. He has consistently argued that his financial circumstances have not permitted him to comply with the said orders.

[15] With respect to his non-attendance at court, he states as follows at paragraph [7] of the aforementioned affidavit of 24 July 2019:

> "7. I wish to point out to this Court that I have been suffering emotionally and psychologically as a result of the delays which have attended the prosecution of this matter through the Court system and two different Doctors have written letters to the Court indicating that I have at different times not been able to [sic] Court as a result of the state of mental health. These letters are attached hereto and marked "LPT2". In fact one of the doctors Dr. Sylvia Loustric was actually cross-examined before **Mr. Justice Randall Worrell** and so he was and is well aware of my difficulties in this regard."

[16] He maintains that his "failure to attend court hearings has never been out of a lack of respect for the Courts or the judicial process".

[17] The affidavit of the respondent/wife filed in response to the application on 15 August 2019, provides certain pertinent and uncontested facts and expressions of opinion concerning the appellant/husband's non-attendance at

court hearings. At paragraph [5] of the same she attests that for the last year and a half the appellant/husband had made no effort to attend court hearings, on some occasions he offered no excuse for his absence and on others he cited his depression and produced letters from a Dr. Harvey. She attests that he does this "all while appearing to function well in other aspects of his life". Photographic evidence was exhibited in support of this expression of opinion.

[18] She attests further that this occurred on several hearing dates before **Worrell J**. On several of these dates his attorney did not know where he was or, informed the court that he was out of the country or that he was ill/injured, among other excuses. She attests to the fact that **Worrell J** on 10 January 2019 issued a summons for his appearance before the court on 7 March 2019, but that the appellant/husband could not be located to enable service of the summons.

[19] At the hearing of 7 March 2019, she deposed at paragraph [9] that **Worrell J** informed counsel for the appellant/husband that "any future absence of Mr. Tatem should be accompanied by a medical certificate stating he is unable to attend court". On the occurrence of his absence at the very next hearing date, his attorney at law produced a letter from a Dr. Loustric. Of major significance is paragraph [13] which deposes to **Worrell J** summoning Dr. Loustric to the court and his cross-examination of her. As a result of

Dr. Loustric informing the court of the appellant/husband's difficulty in being in the same room and/or vicinity as the respondent/wife, special arrangements were made by the judge for him to attend the hearing via electronic access from another room.

[20] It was on this scheduled date, 11 July 2019, after elaborate arrangements were made to facilitate the appellant/husband's attendance, that the appellant/husband did not appear, and provided no explanation as to his absence or for that matter any apology. After being assured by his counsel that he had spoken with his client that morning and reminded him that he had to be present, the judge issued a warrant for the arrest of the appellant/husband.

[21] On the morning of 12 July 2019, before the warrant of arrest could be executed, the appellant/husband voluntarily presented himself to the court. It was at this hearing that the order, the subject of this appeal, was made by **Worrell J**.

[22] It is clear from the record that **Worrell J** went out of his way to accommodate the appellant/husband before clearly drawing certain inferences from his conduct.

THE INTERLOCUTORY APPLICATION HEARD AND DISPOSED OF

[23] The interlocutory application was heard on 19 August 2019.

[24] At that hearing, counsel for the respondent/wife made an 'in limine' submission the primary effect of which was that the appellant/husband should not be heard since he was in contempt of court as a result of his non-compliance with the Court of Appeal Order of 2014 and the Forthwith Order of **Kentish J**, among others. Counsel submitted that the appellant/husband should not be heard at all, or alternatively, at the very least, he should purge his contempt with respect to the 2014 Order.

[25] After hearing the parties, this Court exercised its discretion to order the return of the appellant/husband's Barbados and Canadian passports to facilitate his travel to Canada and made the following Order:

> "1. The appellant/husband shall pay the sums pursuant to the order of this Court dated 12 February 2014, namely, the sum of $18,000 to the respondent/wife and costs taxed in the amount of $23,876.54 on or before 23 August 2019.
> 2. The appellant/husband shall provide security in the amount of $250,000.00 such security to be provided by way of a cash deposit of $125,000.00, a bond from a reputable bank or insurance company in the amount of $125,000.00 on or before 23 August 2019.
> 3. The costs of this application is deferred to the hearing of this appeal".

THE SUBSTANTIVE HEARING

[26] The substantive appeal was heard on 25 September 2019. The parties were agreed that they wished to proceed without the judge's note and reasons for decision.

[27] Both parties rested substantially on their written submissions.

THE PARTIES' SUBMISSIONS

[28] Counsel for the appellant/husband filed submissions in support of his appeal and further submissions in response to those of counsel for the respondent/wife.

[29] In summary, his submissions raised several points.

[30] First, a constitutional issue pursuant to **section 22** of the **Constitution of Barbados** which provides the constitutional guarantee of freedom of movement at **section 22(1)**. Counsel nonetheless admits that an order of the High Court for the payment of money "is an obligation imposed on a judgment debtor for which restrictions on movement can be imposed by statute".

[31] Second, his major argument was that there were only two statutory sources that gave a court jurisdiction to confiscate a passport, namely **Rule 106 (3)** of the **Family Law Rules** and **sections 3** and **14** of the **Debtors Act Cap 198**. **Section 3** is a power of committal under certain circumstances and **section 14** a power to arrest a defendant about to leave the island.

[32] Third, that "due process required for there to have been sworn evidence that the appellant/husband's absence from court on the hearing of the applications would have in some way prejudiced the ability of the respondent/wife to prosecute her claim. There was no such sworn evidence."

[33] Fourth, the failure of the appellant/husband to attend court on 11 July 2019 was not in disobedience of a court order for him to attend and the court ought to have considered his documented mental state.

[34] Fifth, that the appellant/husband would have appeared if ordered to do so and that he voluntarily appeared after the issue of the warrant of arrest on 12 July 2019.

[35] Sixth, confiscation of travel documents is usually reserved for those on bail charged with criminal offences. In making the order which is under appeal the judge mistook the court's jurisdiction under the **Debtors Act Cap. 198** and/or **the Family Law Rules** with the provisions of the **Bail Act Cap. 122 section 13(2)(b)** which applies to criminal matters: see paragraphs [35] and [36] of counsel's further submissions in support of appeal.

[36] Seventh, if in fact the judge had a discretion to confiscate the appellant/husband's passports, it was an unreasonable exercise of discretion.

[37] Counsel for the respondent/wife in her written submissions reiterated her 'in limine' submission made at the interlocutory hearing of 19 August 2019, namely, that the appellant/husband should not be heard until he had purged his contempt or alternatively that he only be heard after he had satisfied certain terms. Counsel relied on the authority of **Mubarak v Mubarak (No. 2) [2007] 1WLR 271 (Mubarak v Mubarak)** where it was held by the England

and Wales High Court that non-payment in breach of a matrimonial order to pay money was in itself a contempt of court with no requirement to show culpability; that questions of culpability came into play as regards the exercise of the court's discretion whether and how to act on the contempt; that since the liberty of the non-payer was not imperiled, the party seeking to debar him was required to prove willful non-payment to the civil standard only; that the husband's willful non-payment had been established to the requisite standard, but, that in the circumstances, it would be wrong to prevent him participating in the wife's application altogether; and that, accordingly, the husband would be heard but on condition that he satisfied certain terms.

[38] Counsel for the appellant/husband in his further submissions made reference to **Hadkinson v Hadkinson [1952] P. 285** which, like **Mubarak v Mubarak** above, speaks to the right to be heard in circumstances where there has been disobedience to an order of the court and the exercise of a judicial discretion in this regard.

[39] In addition, counsel for the respondent/wife submitted:

1. That there is enough evidence to conclude that the appellant/husband satisfied both the civil and criminal standard of willful disobedience;
2. Whether, as argued by counsel for the appellant/husband, he would have appeared if ordered to do so. She submitted that he was personally served with notice of the date of hearing and his counsel admitted to the court that he had personally

spoken to his client on the morning of the hearing and stressed to him the importance of his attending;

3. That the request by herself that the passports be held by the Registrar of the Supreme Court was a form of security and that he was free to make the necessary applications to the judge to obtain the same, were they necessary for travel.

ISSUES ARISING FROM THE APPEAL

[40] Ultimately, the issue for the determination of this court is a narrow one. There is no constitutional issue before this Court or the court below: **see Pedro Ellis v D.P.P. Civil Appeal No. 3 of 2017.**

[41] Simply put, and despite the extensive submissions on both sides, the appeal raises one issue only, as outlined in paragraph [1] above: whether the judge had the jurisdiction to order the appellant/husband to surrender his passports to ensure his attendance in court on 24 October 2019 for the hearing of the contempt proceedings and thereafter.

[42] This jurisdiction, if so found to exist, would constitute an exercise of discretion, and this Court will not interfere with the discretion of the judge, unless it takes a view that he was wholly unreasonable in the exercise of that discretion, or that he took into account matters that he should not have taken into account, or failed to take into account matters which he should have taken into account.

DISCUSSION

[43] A Judge of the Supreme Court has a panoply of powers available to him or her: statutory, common law and in some cases an inherent jurisdiction, whether he or she is sitting in the Family Division or otherwise.

[44] Most significant in this context, is the inherent jurisdiction vested in a court to, inter alia, ensure the effective enforcement of its orders; to prevent steps being taken that would render judicial proceedings inefficacious; to prevent abuses of its process; determining its process and controlling the procedure before it where there are not specifically determined by statute; and, generally, to control the proceedings brought before it.

[45] **Section 12** of the **Supreme Court of Judicature Act, Cap. 117A (Cap. 117A)** is one of the provisions of that Act which speaks to the general jurisdiction of the High Court. **Section 12(2)** specifically states:

> "(2) The jurisdiction vested in the High Court includes, except as provided by this Act, the jurisdiction heretofore capable of being exercised by the High Court or any judge or officer thereof in pursuance of any enactment, prerogative, law or custom, and also all ministerial and other powers, duties and authorities incident to any part of the jurisdiction so vested."

[46] It is evident that neither the **Family Law Act** nor the **Family Law Rules** state specifically (or literally) that a judge can confiscate a litigant's travel documents.

What does Rule 106 provide?

[47] **Rule 106** of the **Family Law Rules** does not expressly treat with the circumstances of this case and may at best give rise to an (ultimately unsuccessful) argument as to whether the confiscation of travel documents constitutes "security" within the meaning or contemplation of the **Rules**. **Rule 106(3)** provides as follows:

> "(3) The court may, pending disposal of the charge
> (a) direct that the person be kept in custody; or
> (b) direct that the person be released with or without security in such sum as the court may direct that he or she will appear in person to answer the charge."

[48] The import of the statutory provision making use of the word "may" is clear. **Section 37** of the **Interpretation Act Cap. 1** establishes that its use is "permissive and empowering".

[49] Applied to this context, it means that the Family Division, in the exercise of its powers under **Rule 106**, is not limited to the two options listed at **Rule 106(3)**, namely, directing that the person be kept in custody or released with or without security in such sum as the court may direct.

[50] It is however patently clear that the mischief that this particular provision targets is ensuring that a defendant/respondent appears "in person to answer the charge".

What does the Debtors Act Cap 198 provide?

[51] In his submission on the **Debtors Act Cap. 198**, counsel for the appellant/husband made reference to **sections 3** and **14**. As stated above, **section 3** speaks to the court's power of committal under certain circumstances and **section 14** to its power of arrest where a defendant is about to leave the island. **Section 3** provides as follows:

> "3. Subject to the provisions hereinafter mentioned, any court may commit to prison for a term not exceeding six weeks, unless within that time payment be made of the sum due, any person who makes or has made default in payment of any debt due from him in pursuance of any order or judgment of that or any other court."

[52] **Section 14** provides as follows:

> "14(1) Where the plaintiff in any action where the damages are ascertained at any time before final judgment proves on oath that he has good cause of action and that the absence of the defendant from the Island will materially prejudice him in the prosecution of his action or where the defendant after judgment gives notice of appeal, the plaintiff, if he proves by evidence on oath to the satisfaction of a Judge or a magistrate that there is probable cause for believing that the defendant is about to quit this Island unless he be apprehended, the Judge or magistrate, as the case may be, may by an order under his hand, order such defendant to be arrested and imprisoned for a period not exceeding six months unless and until he sooner gives security to be approved of by such Judge or magistrate in a sum not exceeding the amount claimed and the probable costs of the action or not exceeding the amount ordered to be paid and the probable cost of the appeal, as the case may be, that he, the defendant, will not go out of the Island without leave of the court.

[53] Once again the use of "may" and its interpretative effect are noted.

Where does the power lie?

[54] While the **Family Law Act Cap. 214** and the **Debtors Act Cap. 198** do not specifically state that a judge may order a litigant to surrender his/her passport, authority to do so may be found as an incident of the general power to grant injunctions, either under **section 91(3)** of the **Family Law Act** or **section 44** of **Cap. 117A**, or as part of the court's inherent jurisdiction.

[55] It is a jurisdiction/power that has been exercised in this and other jurisdictions in the Family Division as well as in other divisions of the Supreme Court and not, as submitted by counsel for the appellant/husband, merely in the Criminal Division.

[56] Thus, in **B v B (Injunction: Restraint on Leaving Jurisdiction) [1997] 2FLR148 (B v B)**, a case often cited as the locus classicus on this issue, the Court of Appeal of the United Kingdom found that it had power under its Supreme Court Act 1981, section 37(1) (similar in import to **section 44** of **Cap. 117A**) to "make an order restraining the defendant from leaving the country in aid of all the court's procedures leading to the disposal of the proceedings, for example (a) where the other party had established a right to interlocutory relief (such as an Anton Piller order); and (b) where a hearing shortly to take place would be frustrated by the defendant's absence". Stated differently, an injunction after judgement in aid of execution.

[57] It is clear that there are a number of circumstances in which under **section 37(1)** of that jurisdiction's **Supreme Court Act, 1981**, it is possible to restrain a party from leaving the jurisdiction and to make a consequential order for the surrender of his/her passport. In this case, it was found (as in the matter at bar) that where a hearing is shortly to take place, the efficacy of which would be frustrated by the absence of one of the litigants, a court may exercise its jurisdiction by making a consequential order for the surrender of a passport in aid of all the court's procedures leading to the disposal of the proceedings.

[58] It is not a free-standing statutory right of the court and it has its limitations.

[59] Thus, it was observed in **B v B** that there was no power to keep a debtor in the country indefinitely until he satisfied a judgment against him. The limits of this power become relevant in this appeal and, in this regard, it is noted that **Worrell J** and this Court made it clear, at all times, of their willingness to entertain applications, properly documented, to temporarily return the passports in order to facilitate approved travel (liberty to apply).

[60] Thus, it has become the norm in the United Kingdom when, for example, a foreign plaintiff complains that the defendant has wrongfully abducted a child to England and Wales and seeks an order for the child's peremptory return under the **Child Abduction and Custody Act 1985**, to order at the outset that, until hearing, the defendant do not leave England and Wales and surrender

his/her passport, such order being made under **section 5** of the **1985 Act** or pursuant to the court's inherent jurisdiction.

[61] In **Re A-K (Minors) (Foreign Passport: Jurisdiction) [1997] 2 FLR 569**, this jurisdiction was invoked where a foreign parent who might be disposed to misuse a period of contact in England in order to remove a child overseas was ordered, in the exercise of the inherent jurisdiction, to surrender his passport. Here the Court of Appeal held that the order made regarding the passport had been well within the judge's power in the exercise of the inherent jurisdiction of the court.

[62] In **Re B (Child Abduction: Wardship: Power to Detain) (1994) 2 FLR 479**, the Court of Appeal held that there was no power to order that a father who was not in contempt of court be detained in prison until the paternal grandparents in Algiers took two children to the British Embassy there for the purpose of their being returned to the UK. Or stated differently, there was no precedent for detaining a party or a witness at the end of the hearing in order to compel another to comply with a court order.

[63] **Hobhouse LJ** spoke to the court's consequential/ancillary power in the following way at 488 A-C:

> "The use of ancillary powers which have the practical effect of restricting the liberty, or the freedom of movement of an individual is recognised in the granting of injunctions, now under **s.37** of the **Supreme Court Act 1981**. Thus a defendant may be

> ordered not to leave the jurisdiction until he has complied with an order requiring him to disclose information as directed by the court ... There is an obvious difference in kind between an injunction and the arrest or physical detention of an individual, but such orders are analogous and illustrate the proper use of an ancillary power although it prima facie infringes the personal rights of the individual involved. Where a power of arrest or detention has been recognised other than as part of a punitive jurisdiction, it is ancillary to the exercise of another power of the court and is legitimate because it is necessary to the implementation of the order of the court."

[64] The case of **Bayer AG v Winter et al [1986] 1 WLR 497** exemplifies the exercise of this jurisdiction outside of the Family Division, specifically in an application for interlocutory orders requiring a defendant to disclose information and deliver up documents. On an appeal of the first instance judge's refusal to grant interlocutory injunctions restraining the first defendant from leaving the country and requiring him to deliver up his passports, the Court of Appeal granted an injunction restraining the defendant from leaving the jurisdiction and requiring him to deliver up his passports as "necessary and reasonable [orders which] are ancillary to the due performance of [the court's] functions".

[65] Similarly, in **Young v Young [2012] EWHC 138 (Fam)** the power to impound a passport pending the disposal of a financial remedy claim exists in principle in aid of all the court's procedures leading to the disposal of the proceedings. The proviso however is that since it involves a restriction of a

subject's liberty, it should be exercised with caution. In short, the restraint should be of short duration as the law favours liberty. Provided that the applicant establishes that there is probable cause for believing that the fact that the respondent is about to quit the jurisdiction will materially prejudice her in the prosecution of her action, a passport impounding order will represent a proportionate public policy based restraint on freedom of movement.

[66] Closer to home, in **Avro's Limited v Mark Anthony**, **Michel J** (as he then was) in a judgement delivered in the High Court of Justice in Antigua and Barbuda in Claim No. ANUHCV 2011/0336, while applying section 8 of that jurisdiction's Absconding Debtors Act, Cap. 3 of the Revised Laws of Antigua and Barbuda which required that "Security may be given by the deposit of money or by bond or otherwise to the satisfaction of the Judge or Registrar as the case be", made an order for the provision of a cash deposit of 50% of the sum owed together with the surrender of a motorcycle of stated value, but until the satisfaction of this Order the respondent's passport and other travel documents (if any) were ordered lodged in the custody of the Registrar of the High Court.

CONCLUSION

[67] Seizure and/or conditional release of a passport in the circumstances at bar, is by classification interlocutory injunctive relief for which there is ample jurisdiction in our laws.

[68] Firstly, in the Family Division **section 91** of the **Family Law Act** articulates the powers of that Division with respect to the granting of an injunction in specific circumstances and generally. In this regard **section 91(3)** provides:

> "(3) In proceedings other than proceedings to which subsection (1) applies, the court may grant an injunction, by interlocutory order or otherwise, in any case in which it appears to the court to be just or convenient to do so and either unconditionally or upon such terms and conditions as the court thinks fit."

[69] Secondly, there is an arguably wider jurisdiction vested generally in the Supreme Court provided by **section 44** of **Cap. 117A** in similar terms as follows:

> "44. The High Court may, at any stage of any proceedings,
> (a) order a sale of any property;
> (b) grant a mandatory or other injunction; or
> (c) appoint a receiver,
> where it appears to the Court to be just or convenient to do so for the purposes of the proceedings before it; and, if the case is one of urgency, the Court may grant a mandatory or other injunction before the commencement of the proceedings.

[70] Thirdly, it falls within our courts' inherent jurisdiction to, inter alia, prevent steps being taken that would render judicial proceedings inefficacious,

prevent abuses of the process and generally to control proceedings brought before it.

[71] **Zuckerman on Civil Procedure 3rd edn. at 10.8** speaks to the extensive nature of a court's power to grant interim injunctive relief. He makes this very significant and important observation and expression of opinion:

> "It is the most flexible and far reaching measure that the courts have at their disposal. The court's powers are as wide in their reach as they are extensive in their consequences. Without a hearing on the merits, and at times even in the absence of the person affected, the court may restrain almost any conduct, or order almost any action to be carried out, regardless of whether such an order would be available at the final judgment. The jurisdiction to grant interim injunctive relief originated in equity, but is now statutory."

[72] In light of the above, we have concluded that the action taken was well within the jurisdiction of **Worrell J**; and from the context outlined, it was not an improper exercise of his discretion.

DISPOSAL

[73] This appeal is dismissed with costs to the respondent/wife to be agreed or assessed.

Chief Justice

Justice of Appeal

Justice of Appeal (Ag.)