

TRANSCRIPT OF PROCEEDINGS

Ref. G01BM619

IN THE COUNTY COURT AT BIRMINGHAM

Priory Courts
33 Bull Street
Birmingham

Before HIS HONOUR JUDGE MURCH

IN THE MATTER OF

MIDLAND HEART LIMITED (Claimant)

-v-

SANJEET GREWAL (Defendant)

**MR MARRIOTT appeared on behalf of the Claimant
THE DEFENDANT did not attend and was not represented**

JUDGMENT

25th APRIL 2022, 10.58 – 11.12

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JUDGE MURCH:

1. This is a contempt application made by Midland Heart Limited using Form N600 against Mr Sanjeet Grewal alleging breaches of an injunction made by Her Honour Judge Wall sitting in this court on 27 October 2020. I shall set out the procedural history of the matter before I consider the allegations made against the defendant and the evidence in support upon which the claimant relies.

2. On 27 October 2020, Her Honour Judge Wall made an injunction in circumstances where the claimant was represented but the defendant was not in attendance. Nonetheless, the court was satisfied it was just and convenient to make an injunction order, and made so in the following terms:

“1. The defendant must:

1.1 remove the silver BMW registration Y182NMR belonging to the defendant from the disabled parking bay in the car park located on the claimant’s land at Priory Street Car Park, Dudley, West Midlands, DY1 1HA, defined as (“the car park”). The defendant must do so within 28 days of service of this order.

2. The defendant (whether by himself or by instructing, encouraging or allowing any other person) shall not:

2.1 after 28 days of service of this order, keep any unroadworthy, untaxed or uninsured vehicle in the car park referred to above.

3. The injunction order is to remain in force until further order.”

3. The injunction contained the usual penal notice, reading “If you do not obey this order, you will be guilty of contempt of court and you may be fined or sent to prison” and advice was given to contact a solicitor or legal advice centre or Citizens Advice Bureau if anything was not understood. It has not been the subject of an application that it be set aside.

4. The witness statement of Ms Marcia Mattis dated 7 June 2021 confirmed that on 6 November 2020 at approximately 10.37 she attended the property where Mr Grewal lives, knocking on the front door. The defendant opened the upstairs window, initially refused to come to the door, advising he was in bed. Ms Mattis states: “Around 10 minutes later the defendant came down and I personally served him with the injunction order and explained what it was, to which he replied ‘OK’.” I am satisfied so that I am sure, therefore, that the defendant was served with a copy of the injunction.

5. There is then a committal application dated 23 February 2022, which makes a number of allegations which I shall set out in this judgment. I am satisfied so that I am sure that the defendant has been personally served with a copy of the application. This is because at page 98 in the bundle there is a certificate of service, confirming that the defendant was personally

served at 6.50pm on 21 March 2020 with the application to commit and related ancillary documents.

6. At the commencement of today's hearing, counsel for the claimant made an application to rely upon witness statements, rather than affidavits, in support of the allegations of breach, and I have given permission for the claimant so to do pursuant to CPR 81.4(1). A number of allegations are made in the contempt application. They are five in total.

7. In support of the allegations, reliance is placed upon 3 witness statements of Ms Marcia Mattis who is employed as a Tenancy Services Officer by the claimant. She was not able to attend court this morning. The claimant therefore relies upon them as hearsay evidence. I remind myself that I have not seen her give evidence but against that it has not been the subject of challenge. The claimant also called Mr Rishi Kaushal who is also employed as a Tenancy Services Officer by the claimant. He confirmed that he had read Ms Mattis' statements and having liaised with her and reviewed the evidence on the claimant's file, her statement documented a true and accurate record of the files and history of the matter.

8. The first allegation is that on 7 December 2020 at 9.20 am, the defendant's untaxed, unroadworthy and uninsured silver BMW, registration Y182 NMR had not been moved and was still parked in the disabled parking bay at the car park. The claimant argues that this is a breach of paragraph 1.1 of the injunction which required that the car be moved within 28 days of service of the order. In support of that allegation, I have the witness statement of Miss Mattis which states that on 7 December at 9.20 she attended the car park to check whether the defendant had moved the vehicle as ordered by the final injunction order. She saw that the vehicle was still there and she appends a photograph of it at page 54 in the bundle. I am satisfied so that I am sure, therefore, that the claimant has shown a breach of that clause of the injunction.

9. I remind myself that I have not heard evidence from Miss Mattis today. As I say, she unfortunately is not able to attend to give her evidence. However, her witness statements have been adopted by another employee of the claimant, namely Mr Rishi Kulshall, and he has confirmed the truth of them. I am satisfied so that I am sure that the evidence in support of this allegation makes out that there has been a breach.

10. The second allegation is that on 22 December, at approximately 9.30 am, the vehicle, unroadworthy, uninsured and untaxed, was still parked in the disabled parking bay in the car park, in breach of clause 2.1 of the final injunction order. I remind myself that the terms of the injunction were that the vehicle not be left at the car park in an unroadworthy, untaxed or uninsured condition. That is an important distinction in my mind.

11. That the car was there on 22 December at 9.30 am is apparent from the witness statement of Miss Mattis which attaches a photograph at page 59 of the bundle that shows the vehicle still present, and she says that she took that photograph on that day. I am satisfied, therefore, the vehicle was there.

12. I also have the evidence of Miss Mattis that on 24 February, she took a search of the Government UK website to see whether the vehicle Y182NMR was the subject of a valid MOT. The results are attached to her witness statement and they show the MOT had expired on 3 June 2016 and that the vehicle was the subject of a SORN since then. I am satisfied, therefore, that the vehicle was not only present but it was in an unroadworthy state on 22 December. I am satisfied, therefore, so that I am sure that this amounts to a breach of clause 2.1 of the injunction.

13. The next allegation, the third one, is that on 17 March 2021 the vehicle, unroadworthy, uninsured and untaxed, was still parked in the disabled bay. In support of that allegation, I have paragraph 10 of the witness statement of Miss Mattis, and again that contains a photograph of the vehicle on that day. I am satisfied the vehicle was there, it was present. It therefore was in breach of the injunction, and similarly I have the evidence that it was not the subject of a valid MOT for the reasons I have set out in relation to the last allegation, and therefore I am satisfied so that I am sure that the defendant was in breach of clause 2.1 of the injunction.

14. The fourth allegation is that on 15 April 2021, at approximately 12.24, the defendant himself informed Miss Mattis that he had not removed the vehicle and that it was untaxed, unroadworthy and uninsured. That is said to be a breach of clause 2.1 of the injunction. I have the witness statement of Miss Mattis which says that she called the defendant on that day at approximately 12.24, and she recalls that the defendant advised he had still not removed the vehicle from the disabled parking bay in the car park. The reason she says that he gave was that he was waiting for a budgeting loan in the next couple of days, and as soon as that came through, he would get the parts to fix the vehicle himself as he intended to begin using it. She advised him that he could not repair the vehicle in the car park area. She recalls the defendant as advising that he was aware he had not complied with the final injunction order, and Miss Mattis advised him the claimant would contact him regarding that matter.

15. This evidence in support of this allegation is slightly different. There is no photograph showing that the vehicle was present on that occasion in breach of clause 2.1 of the injunction, but I am satisfied so that I am sure that the claimant, on the evidence before me, has made out that breach as well. I can see no reason that Ms Mattis would not faithfully

record the contents of that telephone conversation, and the defendant therefore by his own admission, says he had not removed the vehicle. I also, of course, have the record from the GOV UK website showing that on that date the vehicle was not the subject of a valid MOT and being the subject of a SORN instead. I am satisfied, therefore, so that I am sure that there has been a breach of clause 2.1 of the injunction on that day.

16. Finally, on 3 February 2021, the claimant alleges that it conducted checks and confirmed that the vehicle was registered as off the road. It was still untaxed, unroadworthy and uninsured. On this date, the claimant observed that the vehicle, unroadworthy, untaxed and uninsured was still parked in the parking bay, in breach of the terms of the injunction, and again a photograph was taken on that day, which appears at page 88 in the bundle, and again one sees the vehicle present in circumstances where, on the date in question for the reasons I have already set out, the vehicle was not the subject of a valid MOT. I am satisfied, therefore, so that I am sure, that allegation has been made out as well.

17. I shall adjourn the question of the sentence I impose to a date to be fixed after I heard submissions. The order which is drawn which reflects this judgment will inform the defendant of his right pursuant to CPR 81.8(7) to appeal within 21 days without permission against the making of it.
