

IN THE COURT OF APPEAL (CIVIL DIVISION)
ON APPEAL FROM
THE COURT OF PROTECTION

Appeal Ref: CA-2022-001676
Lower Court ref: No.13609965

MR JUSTICE HAYDEN
[2022] EWCOP 36

B E F O R E:

LORD JUSTICE PETER JACKSON
LORD JUSTICE BAKER
LORD JUSTICE WARBY

ON 11 NOVEMBER 2022

In the matter of:

SRICHAND PARMANAND HINDUJA

B E T W E E N:

GOPICHAND PARMANAND HINDUJA

Appellant

and

(1) VINOOSRICHAND HINDUJA

(2) SHANUSRICHAND PARMANAND HINDUJA

**(3) SRICHAND PARMANAND HINDUJA
(by his litigation friend, the Official Solicitor)**

**(4) ANDREW HINE
(Srichand Parmanand Hinduja's deputy for property and affairs)**

Respondents

(5) BLOOMBERG LP

Intervenor

ORDER OF 11 NOVEMBER 2022

UPON the Appellant's appeal of the order of Mr Justice Hayden dated 23 August 2022 (the "RRO") by Appellant Notice dated 24 August 2022 (the "Appeal")

AND UPON the order dated 13 September 2022 and sealed on 15 September 2022 (Lord Justice Baker and Lord Justice Nugee) (the “**CA PTA Order**”) which, *inter alia*:

- (i) granted permission in respect of the Appeal;
- (ii) made various directions for the conduct of the Appeal (including listing the matter for a hearing) (the “**Appeal Hearing**”) on 18/19 October 2022;
- (iii) extended the stay of the RRO; and
- (iv) imposed reporting restrictions (contained in the Schedule) in respect of proceedings before the Court of Appeal (the “**CA RRO**”).

AND UPON hearing Leading Counsel and Junior for the Appellant, Leading and Junior Counsel for the First and Second Respondents, Leading Counsel and Junior for the Third Respondent, and Junior Counsel for the Intervenor.

AND UPON it being recorded and agreed by the parties that the reference by Leading Counsel instructed by the Official Solicitor in the course of the Appeal Hearing to privileged material was inadvertent; that the said material has not thereby lost its confidentiality and remains privileged; and that there was no waiver of privilege.

AND UPON the Court of Appeal handing down judgment on the Appeal on 11 November 2022

IT IS ORDERED AND DIRECTED that:

1. The Appeal is allowed to the limited extent set out in paragraph 2 below.
2. The RRO is varied in the terms of the order attached as an Appendix to this order (“**the New RRO**”). The CA RRO is hereby discharged.
3. For the avoidance of doubt, the stay of paragraphs 1-3, 6, 10, 12-13 and 19-21 of the RRO is discharged (as per paragraph 9 of the CA PTA Order).
4. The judgments of Mr Justice Hayden in this matter under neutral citations [2022] EWCOP 36 and [2022] EWCOP 37 shall be published by the Court.
5. The Court will make further orders in due course in respect of:
 - (1) The availability of a transcript of the Appeal Hearing to non-parties.
 - (2) The placing online of the video recording of the Appeal Hearing by His Majesty’s Courts and Tribunals Service.

(3) Costs.

Dated this 11th day of November 2022

APPENDIX: The New RRO

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B E F O R E:

**LORD JUSTICE PETER JACKSON
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ON 11 NOVEMBER 2022

**In the matter of
SRICHAND PARMANAND HINDUJA**

B E T W E E N:

GOPICHAND HINDUJA

Appellant

and

(1) VINOO SRICHAND HINDUJA

(2) SHANU SRICHAND PARMANAND HINDUJA

**(3) SRICHAND PARMANAND HINDUJA
(by his litigation friend, the Official Solicitor)**

**(4) ANDREW HINE
(Srichand Parmanand Hinduja's deputy for property and affairs)**

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ORDER OF 11 NOVEMBER 2022

IMPORTANT If any person disobeys the order in paragraphs 10-12, 19-21 they may be found guilty of contempt of court and may be sent to prison, fined or have their assets seized. They have the right to ask the court to vary or discharge the order.

UPON Hayden J having given a judgment [2022] EWCOP 36 in this matter on reporting restrictions handed down on 23 August 2022 and made an order of that date concerning the reporting restrictions imposed in these proceedings

AND UPON Hayden J having given a further judgment concerning the stay of his order on 23 August 2022 [2022] EWCOP 37 and having given supplementary reasons to his first judgment ([2022] EWCOP 36) on 26 August 2022.

AND UPON the Appellant having appealed the order of Hayden J of 23 August 2022 to the Court of Appeal.

AND UPON the Court of Appeal varying the said order of Hayden J in its consideration of what reporting restrictions should be imposed on these proceedings and imposing such restrictions by this order.

AND UPON the Court of Protection having previously conducted an attended hearing in public in this matter on 21 July 2020 and imposed reporting restrictions under a transparency order of that date in standard form, and such transparency order having been varied by orders dated 21 September 2020, 21 October 2020, 14 December 2020 and 21 December 2020.

IT IS HEREBY ORDERED that:

Disapplication of previous orders and retrospective application of this order

1. The order of 21 July 2020 shall cease to have effect forthwith in relation to all the previous public hearings in this matter, the present hearing and any future attended public hearings.
2. As to the order of 21 December 2020, the restrictions on the publication of information in these proceedings applied therein shall cease to have effect in relation to all the previous public hearings in this matter, the present hearing and any future attended public hearings.
3. The restrictions on the publication of information in this order shall apply to such past and present public hearings, including (for the avoidance of doubt) public hearings in the Court of Appeal.

Direction that further hearings be in public

4. Subject to further orders of the Court of Protection, or other court before whom any hearing in these proceedings is being conducted ("**the Court**"), further hearings in this matter shall be heard in public.
5. The Court may exclude from an attended hearing in public any person (other than a party) on the grounds that it is in the interests of justice to do so (for example if that person refuses a request to sign a document recording their attendance and that they are aware of the terms of this order).

6. Attended hearings are to be listed as follows:

In the matter of Srichand Parmanand Hinduja; Gopichand Parmanand Hinduja v (1) Srichand Parmanand Hinduja (by his litigation friend the Official Solicitor), (2) Vinoo Hinduja; (3) Shanu Hinduja [together with the names of any other person who is party to any application being heard at such hearing]

7. Part 3 of Practice Direction 4A to the Court of Protection Rules 2017 (which permits the communication of specified material and information in certain circumstances when there is no public hearing) shall continue to apply to these proceedings.

8. The parties and their legal representatives are permitted to communicate information or material relating to the Court of Protection proceedings and Court of Appeal proceedings to:

8.1. Srichand Parmanand Hinduja's wife, siblings and their children;

8.2. Srichand Parmanand Hinduja's grandchildren;

8.3. Gopichand Parmanand Hinduja's legal representatives in the Chancery Proceedings (including for the avoidance of doubt Debevoise & Plimpton LLP);

8.4. Srichand Parmanand Hinduja's legal representatives in the Chancery Proceedings (acting by Vinoo Hinduja as his litigation friend); and

8.5. Hanover Communications (media adviser acting for Gopichand Parmanand Hinduja.

The Persons Bound by the Injunctive Order

9. The following persons (the Persons Bound by the Injunctive Order) are bound by this injunctive order:

9.1. the parties and their representatives,

9.2. the witnesses,

9.3. all persons who attend or join remotely all or any part of an attended hearing,

9.4. all persons who by any means obtain or are given an account or record of all or any part of an attended hearing or of any order or judgment made or given as a result of an attended hearing,

9.5. all persons who are provided with or by any means obtain documents and information arising from these proceedings, and

9.6. any body, authority or organisation (and their officers, employees, servants and agents) for whom any such person works or is giving evidence.

The Subject Matter of the Injunctive Order

10. The material and information (the "**Information**") covered by this injunctive order is:

- 10.1. The name or address of any placements accommodating Srichand Parmanand Hinduja and/or Sareeta Hinduja for treatment care or otherwise, but only while they are accommodated at such placements.
- 10.2. The identity of any clinicians providing care or treatment to Srichand Parmanand Hinduja and /or Sareeta Hinduja, but only while they are under the care of such clinicians.
- 10.3. The addresses or contact details of any party or family member of Srichand Parmanand Hinduja (including any private residence where he may be cared for).
- 10.4. Any information about Srichand Parmanand Hinduja's clinical diagnosis or prognosis, healthcare and daily care unless the information is contained in any past or future published judgment given in the Court of Protection, the Chancery Division or another court in England and Wales.
- 10.5. Any information about Sareeta Hinduja's clinical condition, healthcare, daily care and the time she spends with Srichand Parmanand Hinduja unless the information is contained in any past or future published judgment given in the Court of Protection, the Chancery Division or another court in England and Wales.

Duration of the Injunctive Order

11. This Injunctive Order shall have effect until further order of the Court.

What the Injunctive Order prevents people from doing

12. Subject to further order of the Court and save as provided by paragraphs 8, 13, 14 and 15 of this order the Persons Bound by this Injunctive Order shall not by any means directly or indirectly:
 - 12.1. publish the Information or any part or parts of it, or
 - 12.2. cause, enable, assist in or encourage the publication of the Information or any part or parts of it.

What the Injunction does not prevent people from doing and does not apply to

13. Subject to further order of the Court this Injunction does not prevent the Persons Bound by this Injunction:
 - 13.1. otherwise reporting or commenting upon these proceedings and the issues in them in full, save in so far as such reports or comments are prohibited pursuant to paragraph 12 above;
 - 13.2. reporting or commenting upon proceedings in the Court of Protection generally or in relation to applications similar to this one;
 - 13.3. publishing information relating to any part of a hearing in a court in England and Wales (including a coroner's court) in which the court was sitting in public and did not itself make any order restricting publication;

- 13.4. complying with an order of any court with competent jurisdiction;
 - 13.5. disclosing information to ensure that the medical and care needs of Srichand Parmanand Hinduja are met; and
 - 13.6. publishing the Information so far as knowledge of the Information has been acquired otherwise than in the course of these proceedings
14. Subject to further order of the Court this injunctive order does not prevent the Persons Bound by this Injunctive Order from communicating information relating to these proceedings on the basis that Part 3 of Practice Direction 4A to the Court of Protection Rules 2017 (which relates to proceedings held in private) applies to these proceedings.

Previous permission to publish the Information

15. Nothing in this order shall restrict the rights conferred under previous orders made in these proceedings to publish the Information.

Variation of this order

16. The parties and any person affected by this order may apply to the Court of Protection on notice to the parties for an order (and the Court may of its own motion make an order) that:
- 16.1. varies or discharges this order or any part or parts of it, or which
 - 16.2. permits the publication of any of the Information on the basis that it is lawfully in the public domain or for such other reason as the Court thinks fit.

Further orders

17. In so far as the Court holds the Information, an application may be made to the Court by any person for a direction that they be provided with the Information or some of it on such terms as the Court thinks fit. Any such application must be accompanied by evidence setting out why such a direction is sought and must be made on three days' notice to the parties.

Interim order concerning documents

18. Any application under r. 5.9 COPLR 2017 or (in the case of records of the Court of Appeal) r.5.4C CPR 1998 for the supply of documents from the records to a non-party must be made on no less than three working days' notice to the parties.
19. Pending further order of the Court of Protection no person may make any use of any Category A or Category B Documents (defined below) where such use of the documents would have been in breach of the transparency and reporting restrictions orders in force immediately before the coming into effect of this order and for these purposes pursuant to the orders dated 21 July 2020, 21 December 2020 and 5 September 2022:
- 19.1. Category A Documents in relation to each party are any documents to which COPR 2017 rule 5.10 applies; and

- 19.2. Category B Documents are other documents that contain information of which a party is aware because the information is contained within a Category A Document, regardless of whether such Category A Document has been referred to at a hearing in public.
20. Nothing in paragraph 19 above shall prevent any person from discussing or referring to any matter raised at a public hearing or which is in the public domain by reason of having been contained in a document that has been provided to a member of the public at any public hearing (not including any document which is simply contained in the hearing bundles).
21. For the avoidance of doubt, nothing in paragraphs 19 and 20 above shall permit any party from using the documents (Category A or Category B Documents) referred to and/or provided to any person at a public hearing for the purposes of other proceedings.

Rights of audience

22. Subject to further order of the Court, any person who would have been entitled under the Legal Services Act 2007 to exercise rights of audience at the attended hearing if this order had not been made and it was held in private (and is not otherwise entitled to exercise such rights), shall be entitled to exercise equivalent rights of audience at that attended hearing and any further attended hearing of this application.

ORDER DATED 11 NOVEMBER 2022