



Neutral Citation Number: [2025] EWCA Civ 1223

Case No: CA-2024-001698

**IN THE COURT OF APPEAL (CIVIL DIVISION)**  
**ON APPEAL FROM THE HIGH COURT (FAMILY DIVISION)**  
**The Hon Mr Justice Cohen**  
**[2019] EWHC 2956 (Fam)**

Royal Courts of Justice  
Strand, London, WC2A 2LL

Date: 02/10/2025

**Before :**

**LORD JUSTICE MOYLAN**  
**LADY JUSTICE FALK**  
and  
**LORD JUSTICE COBB**

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**Between :**

**NATALIA NIKOLAEVNA POTANINA**

**Appellant**

**- and -**

**VLADIMIR OLEGOVICH POTANIN**

**Respondent**

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**POTANINA v POTANIN (No.2) (Costs)**  
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**Charles Howard KC, Deepak Nagpal KC and Jennifer Palmer** (instructed by **Hughes Fowler Carruthers**) for the **Appellant**  
**Lord Faulks KC, Rebecca Carew Pole KC, Rebecca Bailey-Harris** (instructed by **Payne Hicks Beach**) for the **Respondent**

Written Submissions on Costs : 11 September 2025

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**Approved Judgment**

This judgment was handed down remotely at 10.30am on 2 October 2025 by circulation to the parties or their representatives by e-mail and by release to the National Archives.

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**Lord Justice Moylan, Lady Justice Falk, Lord Justice Cobb :**

***Introduction***

1. On 4 September 2025, this court handed down judgment on an appeal brought by the Appellant (hereafter the ‘wife’) against the refusal of her application for leave to make an application under Part III of the Matrimonial and Family Proceedings Act 1984. That judgment is published under the neutral citation number: [2025] EWCA Civ 1136.
2. This short judgment deals with question of costs arising from and related to the appeal.
3. There is no dispute between the parties that the Respondent (‘husband’) should pay the wife’s costs of the appeal before us on a standard basis to be assessed if not agreed. It is also agreed that a licence needs to be obtained in order for this sum to be paid to the wife given that the husband is a designated person under the Russia (Sanctions) (EU Exit) Regulations 2019.
4. The parties are not agreed as to the following matters:
  - i. Should the order for costs which was made by this court in the earlier appeal in May 2021 (in favour of the wife) now be varied in light of the Supreme Court’s later decision (2024)? This issue has been remitted for our consideration by the Supreme Court.
  - ii. Should the husband make a payment on account of the wife’s costs?
  - iii. Should the husband be able to offset against his liability for costs on this appeal the sum which the wife was ordered to pay by the Supreme Court on the husband’s appeal?
  - iv. How much time should the husband be given to meet any costs award given the sanctions imposed on him? He seeks 90 days from the date when the relevant licence has been obtained; the wife proposes 14 days.

***Previous costs orders***

5. For context, it is necessary to reference two previous costs orders made on the appeals within this protracted litigation.
6. On 13 May 2021, this court made a costs order in the following terms:

“(6) The Respondent (husband) do pay the Appellant (wife)'s costs of and incidental to this appeal ..., with such costs to be the subject of a detailed assessment on the standard basis, unless the quantum of the same can be agreed, and the Respondent do pay to the Appellant the sum

of £255,301.20 by 4pm on 20 May 2021 on account of those costs.

(7) The Respondent do pay the Appellant's costs of and incidental to the Respondent's set aside application, with such costs to be the subject of a detailed assessment on the standard basis, unless the quantum of the same can be agreed, and the Respondent do pay to the Appellant the sum of £236,138.60 by 4pm on 20 May 2021 on account of those costs.”

7. On 28 March 2024, the Supreme Court made a costs order in these terms:

“1. The Respondent (wife) pay 50% of the Appellant’s (husband’s) costs of the appeal, subject to a detailed assessment on the standard basis if not agreed, in accordance with the terms of the licence referred to at paragraph 1(a)(i) below, but that the sum shall not become payable by the Respondent to the Appellant, and interest at the applicable judgment rate shall not begin to accrue, until:

a. 90 clear days have elapsed from the later of the following events:

i. the wife has obtained a licence authorising her to comply with this costs order (for which she shall apply as soon as reasonably practicable);

ii. the conclusion of the detailed assessment or the date on which the quantum of the costs payable by the Respondent is agreed between the parties; or

iii. the final determination of the wife’s substantive Part III claim (including, if permission to appeal be granted, the determination of any appeal(s) therefrom).

or

b. further order”.

### ***The arguments***

8. The wife contends that the 2021 costs order should remain unaltered. She argues that she comprehensively succeeded in demonstrating in the earlier appeal that Cohen J had not been materially misled by her at a without notice hearing in January 2019; the husband had not challenged this court’s conclusions on that issue on his further appeal to the Supreme Court. The husband had succeeded in his appeal in the Supreme Court on an argument which had not previously been raised.

9. The husband contends that the 2021 orders should be varied in light of the subsequent decision of the Supreme Court; he accepts that he should be liable for the wife’s costs

of Cohen J's *de novo* determination of her application for leave and in relation to the case arising under the Maintenance Regulation, but does not agree that he should pay her costs of the set aside aspect of the proceedings and associated appeal. Indeed he suggests that the wife should be ordered to pay his costs of that part. That all said, he proposes as a compromise that he should pay 50% of the costs of the 2021 appeal and 50% of the costs before Cohen J, on the basis that each party has succeeded in their respective appeals.

10. In relation to the payment on account, the wife seeks an order for the payment of £350,000, representing c.72% of her total costs. The husband disputes that there should be any payment on account; if a payment on account is to be made, he does not appear to dispute the figure.
11. The wife invites the court to order that the husband should make payment of the costs award within 14 days of her obtaining a licence for him to transfer the money to her out of Russia. The husband seeks 90 days; he points to (what he describes as) the "formidable practical difficulties" which are likely to arise given that the funds must be routed through intermediary banks in different jurisdictions and at each stage the relevant compliance requirements must be met. He cites potential delays beyond his control. He further points to the fact that in its costs order of March 2024 (see [1(a)] at §7 above) the Supreme Court allowed 90 days for him to comply with sanctions requirements. The wife counters this by arguing that this time-frame was imposed at that time at her request because of her own personal banking difficulties.
12. The husband wishes to be able to offset from his liability for costs the amount which the wife was ordered to pay in the Supreme Court. The wife opposes this on the basis that under the Supreme Court order, she has until the conclusion of the whole proceedings to pay those costs (see [1(a)(iii)] of the Supreme Court costs order at §7 above).

### **Conclusion**

13. We largely favour the wife's arguments on the issue of costs. We are persuaded not to disturb the award of costs from this court in 2021; we accept that the fundamental basis on which she had succeeded in her appeal before this court in 2021 was not materially challenged in, let alone disturbed by, the Supreme Court, which decided the husband's appeal on previously unargued grounds (see [40] of the Supreme Court's decision: [2024] UKSC 3). Further, standing back from the history of the various appeals, the wife can properly be described as the successful party, as she has been given leave to pursue her financial application and, although the general rule does not apply to an appeal from the Family Division (CPR 44.2(3)(a)), there is no good reason why this should not be the "decisive factor" in this case: *Baker v Rowe* [2009] EWCA Civ 1162, at [25].
14. In line with CPR rule 44.2(8) we are satisfied that there is no good reason that the wife should not receive a reasonable sum on account of her costs, and the sum claimed (a little over 70% of the total costs claim per her form N260) is in our view appropriate.
15. It is not open to us to vary the costs order made by the Supreme Court, and therefore reject the husband's claim for an 'offset' of his costs liability.

16. As for the time for payment, we take the view that the husband should have 60 days to comply with the costs' orders following notification that the wife has obtained the relevant licence(s) authorising her to receive funds; 90 days seemed to us to be excessive, but we accept the husband's contention that 14 days imposes an unrealistic time-frame upon him.

***Order***

17. Accordingly the order we make is as follows:

- i. Paragraphs 6 and 7 of the order of the Court of Appeal dated 13 May 2021 do stand without variation.
- ii. The Respondent (husband) do pay the Appellant's (wife's) costs of and incidental to this appeal, with such costs to be the subject of a detailed assessment on the standard basis, unless the quantum of the same can be agreed, and (subject to any further order) the following consequential provisions shall apply:
  - a) The Respondent do pay to the Appellant the sum of £350,000 on account of those costs within 60 clear days of the date on which the Appellant has notified the Respondent in writing (via their respective solicitors) that she has obtained the relevant licence(s) authorising her to receive funds from the Respondent pursuant to this order.
  - b) The Respondent do pay to the Appellant the remaining balance of those costs within 60 clear days of the earlier of the following occurring:
    - i) the quantum of the costs payable by the Respondent, pursuant to paragraph 2 of this order, being agreed between the parties; or
    - ii) in default of such agreement, the date on which the detailed assessment is concluded

PROVIDED THAT the Appellant has already notified the Respondent in writing (via their respective solicitors) that she has obtained the relevant licence(s) authorising her to receive funds from the Respondent pursuant to this order. In the event that the Appellant has not provided such notice by either of the events specified in paragraphs 2(b)(i) or (ii) (above) occurring, the remaining balance shall not become payable until 60 clear days have elapsed from of the date her providing such notice.

- iii. In the event that any part of the sums referred in paragraphs 2(a) and (b) of this order is not paid by the due date(s) specified therein, interest at the applicable judgment rate shall begin to accrue on the outstanding sums immediately after the due date(s).
- iv. The payments referred to in this order shall be paid in accordance with the terms of the licence(s) referred to at paragraph 2(a) and (b) of this order.

- v. For the avoidance of doubt, the costs order made by Supreme Court on 28 March 2024 stands unaltered by this court.