

Judgment 54/2004

**Van Leuven et al (Ozannes) v. Virani and
Virani – Royal Court (Civil action file 607) –
12 November, 2004**

Civil action fixed for 7 February, 2005 – directions as to timetable set on 22 October, 2004 – Defendants’ application for extension of time – whether religious festivals or fasting, or illness of a party, were factors which should be taken into account – timetable adjusted – existing trial date confirmed

IN THE ROYAL COURT OF THE ISLAND OF GUERNSEY

The 12th day of November, 2004, before Patrick John Talbot, Q.C., Esquire, Lieutenant Bailiff; sitting alone.

In the matter of

Between:

JOHN NIKOLAS VAN LEUVEN
ROGER ALLEN PERROT
RUPERT ARTHUR REES EVANS
GARTH ATHELSTAN BAINBRIDGE
PETER TERRENCE RICHARD FERBRACHE
PETER ANDREW HARWOOD
EDWARD ARTHUR GERALD PRENTICE
WILLIAM PETER SIMPSON
DAVID CHRISTOPHER MOORE
ST JOHN ANTHONY ROBILLIARD
("OZANNES")

Plaintiffs

-v-

NIZARALI RAJABALI VIRANI
PRAPHULBALA NIZARALI RAJABALI VIRANI

Defendants

The Lieutenant Bailiff having considered in writing an application by the Defendants dated 8th November, 2004, for variation of the Order for directions dated 22nd October, 2004 as follows:

- 1) The time allowed under paragraphs 1 and 3 of the said order of 22nd October, 2004, is extended until 4.00 p.m. 29th November, 2004;
- 2) The time allowed under paragraph 2 of the said order is extended until 4.00 p.m. on 13th December, 2004;

3) The time allowed under paragraph 6 of the said order is extended until 6.00 p.m. on
7th January, 2005;

and the Lieutenant Bailiff DISMISSED the Defendants' application that the trial date of 7th
February, 2004 be vacated.

S. M. D. ROSS
Her Majesty's Deputy Greffier

**IN THE ROYAL COURT OF GUERNSEY
ORDINARY DIVISION**

Between:

**JOHN NIKOLAS VAN LEUVEN
ROGER ALLEN PERROT
RUPERT ARTHUR REES EVANS
GARTH ATHELSTAN BAINBRIDGE
PETER TERRENCE RICHARD FERBRACHE
PETER ANDREW HARWOOD
EDWARD ARTHUR GERALD PRENTICE
WILLIAM PETER SIMPSON
DAVID CHRISTOPHER MOORE
ST JOHN ANTHONY ROBILLIARD
("OZANNES")**

Plaintiffs

and

**NIZARALI RAJABALI VIRANI
PRAPHULBALA NIZARALI RAJABALI VIRANI**

Defendants

**R U L I N G on the Defendants' application dated 8 November 2004 for variation of the
Order for Directions dated 22 October 2004**

1. I gave directions in this matter in open Court on 22 October 2004, when I heard Adv. Alison Ozanne on behalf of the Plaintiffs and took into account the written submissions of the Defendants contained in a letter from them dated 20 October 2004.
2. I now have to deal with an application by the Defendants dated 8 November 2004, supported by an affidavit by the First Defendant received in the Greffe on 6 November 2004, ("Mr Virani's affidavit"), for a variation of the Order for Directions in the form of extensions of time for complying with the timetable set by me on 22 October 2004 towards a hearing of the entire proceedings commencing on 7 February 2005.
3. I arranged for the parties to be notified by HM Deputy Greffier that I proposed to deal with the Defendants' application on paper, without the need for an oral hearing, and asked for any submissions from Adv. Alison Ozanne to be received by 11 November 2004. No such submissions have been received and so I shall deal with the application today.

4. The three principal reasons for the Defendants requesting extensions of time appear from Mr Virani's affidavit to be these:
 - that it has proved impossible for the Defendants to comply with some of the directions “due to the holy month of Ramadhan and other commitments”;
 - that Mrs Virani has become seriously ill and is recovering from “her long illness”; and
 - that the date fixed for the hearing, namely, five days commencing on 7 February 2005, is not convenient, or even impossible, due to Mr Virani's (unspecified) “travel schedule”.
5. Mr Virani's affidavit does not give details of the “other commitments” or refer to any documents relating to Mrs Virani's illness or give details of Mr Virani's travel schedule in or about February 2005. Nevertheless, I shall proceed on the basis that further details, so as to satisfy the Court, would have been made available to the Court by the Defendants on the other commitments and Mrs Virani's illness, if this application had been dealt with by me on an oral basis.
6. The business of the Royal Court continues during many, different religious festivals or periods of religious fasting; the Royal Court Civil Rules 1989 make no provision for time to stop running in any such circumstances. It cannot, in my judgment, be acceptable for a party to contend that it has been impossible for him to comply with a trial timetable because part of the timetable happens to fall within a period of religious fasting and compliance, such as Ramadhan. I rejected a submission to this effect made in the Defendants' letter dated 20 October 2004, when I gave directions on 22 October 2004. I also reject the first of the three principal reasons for a variation of the Order for Directions made in Mr Virani's affidavit, which is to the same effect.
7. I turn to the second reason. I accept that it was understandable for Mr Virani to be distracted from preparing the Defendants' Amended Defences and Lists of Documents, both of which are due by 4pm on Monday 15 November 2004, by Mrs Virani's illness, and that it is now necessary for me to make some adjustment to some of the directions made by me on 22 October 2004 to accommodate this matter. But Mr Virani has deposed that his wife is recovering and I, therefore, see no reason why more than a further fortnight is necessary for discovery and amendment of the Defences. It is often necessary for parties to prioritise compliance with a Court order

for directions over other matters, and I strongly suggest that the Defendants should do so now.

8. I, therefore, vary the Order for Directions dated 22 October 2004 as follows:
 - Time extended under paragraphs 1 and 3 until 4pm on 29 November 2004
 - Time extended under paragraph 2 until 4pm on 13 December 2004
 - Time extended under paragraph 6 until 4pm on 7 January 2005
9. In making arrangements for trials of civil matters the Royal Court has to balance, *inter alia*, the availability of parties on particular dates with the availability of the Court's members, *i.e.* the presiding Judge and the jurors, and the availability of a courtroom for the trial. The interests of other litigants in other proceedings waiting for a trial are also important to take into account. Against this background, on 22 October 2004 I fixed the hearing of the whole of these proceedings to commence on 7 February 2005, with an estimate, I think, of 5 days.
10. In my judgment, Mr Virani's affidavit does not contain sufficient details of his alleged travel schedule to persuade me to vacate the trial date at this stage. Indeed, there are no details given in the affidavit of quite what this travel schedule may amount to. I, therefore, refuse to vacate the trial date of 7 February 2005.
11. I stress that, in my judgment, it is important that these proceedings are heard, and therefore come to an end, as soon as possible. I say this, taking into consideration the interests of all the parties.

Patrick Talbot QC
Lieutenant Bailiff
12 November 2004