



THE COURT OF APPEAL

Neutral Citation Number [2020] IECA 275

Record Numbers: 2019/138, 2016/475, 2016/542

High Court Record Number: 2014/484COS

**Noonan J.
Haughton J.
Binchy J.**

**IN THE MATTER OF KELLY TRUCKS LIMITED (IN VOLUNTARY LIQUIDATION)
AND IN THE MATTER OF THE COMPANIES ACTS 1963 - 2012**

BETWEEN

GERARD MURPHY (LIQUIDATOR)

APPLICANT

-AND-

JAMES KELLY AND ANNE KELLY

RESPONDENTS

Record Numbers: 2019/135, 2019/137, 2016/476

High Court Record Number: 2014/333COS

**IN THE MATTER OF KELLY TRUCKS LIMITED (IN VOLUNTARY LIQUIDATION)
AND IN THE MATTER OF THE COMPANIES ACTS 1963 - 2012
AND IN THE MATTER OF THE COMPANIES AMENDMENT ACT 1990**

BETWEEN

GERARD MURPHY (LIQUIDATOR)

APPLICANT

-AND-

**JAMES KELLY ANNE KELLY THOMAS CLARKE NEHAAL SINGH KELLY TRUCKS
STROKESTOWN LIMITED
(NOW KELLY TRUCK STROKESTOWN DAC) AND
KELLY TRUCKS (BALLAGHADERREEN) LIMITED**

RESPONDENTS

Record Number: 2019/182

High Court Record Number: 2014/28COS

IN THE MATTER OF KELLY TRUCKS LIMITED (IN VOLUNTARY LIQUIDATION)

BETWEEN

COSTELLO TRANSPORT LIMITED

APPLICANT

-AND-

NEHAAL SINGH

JUDGMENT (*Ex Tempore*) of Mr. Justice Haughton delivered on the 1st day of October, 2020

1. I entirely agree with the judgment just delivered by Judge Noonan.
2. To this I would like to add that I find all of the arguments pursued by Mrs. Kelly to be unstateable, and I find myself in agreement with the submission of the respondent that these appeals are an abuse of the process.
3. Her fundamental ground and argument is that the orders of Baker J on 17 February 2014 and 13 April 2015 are flawed and void, and that everything that follows must be set aside. But those orders have long ago become final, and Mrs. Kelly is now precluded from pursuing her arguments because they were disposed of by orders of this Court on 19 October 2015, the Supreme Court on 16 March 2016, the judgment of Murphy J of 15 January 2019 and the order of Baker J of 7 March 2019.
4. The court process is designed to enable appropriate courts to hear and determine real and genuine issues and disputes, and appeals, but no real or genuine issues have been raised or pursued by Mrs. Kelly. She has been afforded every opportunity by this court to address the substantive orders made by Murphy J on 28 February 2019 but she has pointedly failed to avail of those opportunities. She has weighed heavily on the patience of this court and has, in my view, taken up court time and incurred further costs for the respondents without any justification whatsoever.
5. Accordingly I find that Mrs. Kelly's attempt to pursue the same arguments in her Notices of Appeal, in her written and oral submissions and in her latest Notice of Motion, and the manner in which she repeatedly sought to pursue the same unstateable arguments before this court, to be an abuse of the process.