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ROYAL COURT  
(Matrimonial Causes Division)

242.

6th December, 1994

Before: F.C. Hamon, Esq., Commissioner  
and Jurats Vibert and Rumfitt

Between:

A

Petitioner

And:

B

Respondent

Application by the Respondent for an injunction restraining the Petitioner from preventing the Respondent's exercising access to the children of the marriage over the Christmas and New Year period.

Advocate A.P. Roscouet for the Respondent.  
Advocate R.G.S. Fielding for the Petitioner.  
The Solicitor General representing the  
Education Committee.

JUDGMENT

5 THE COMMISSIONER: Our interest has got to be the interest of the children and we are very concerned that the children's mental health is deteriorating rapidly. It would be very difficult for an adult to survive in this sort of situation. For two small children - one of whom perhaps is not the brightest - the situation is intolerable.

10 What I said to your client, Mr. Fielding, when we were last in Court was that - if this carried on - she stood a very fair chance of losing the children. That was not a threat, I am sure you will understand. I am telling you this so that you can explain the position to your client, because she may not have understood what I meant. It was not a threat; we are not in the business of threatening in a situation like this. It was a true concern that we had for the rapidly deteriorating situation.

15 It appears from the reports that we have read that the situation has not improved; it has in fact got worse. I do not want to get drawn into the question of who told the children what.

Allegations and counter-allegations flying across the Court do nobody any good. I merely say this: it is perfectly right that three weeks before Christmas is not the time for two small children, however unhappy they may be, to begin even to discuss this matter. Counsel, very wisely, have agreed to adjourn the matter until after Christmas.

I will say this once more to both parties - and I include, for the purposes of this exercise, B.

The Christmas period is going to be a testing time. The father is to be given the proper access to his children to which he is entitled. If there are further problems they will only compound the problems which I believe the Petitioner now faces. It is up to her, but you must explain to her in words of one syllable, Mr. Fielding, that our interest in this case is entirely that of these two small children, about whose welfare we are more than concerned. We shall not hesitate, when you come back again and if we think it right, to do what we have to do. I will say no more than that.

We are not going to make an injunction order. We ask now, Mr. Fielding, if your client will give us an undertaking that she will abide by the terms of access, as set out in the summons.

Our order will then take this form: the Petitioner has given the Court a personal undertaking that she will abide by the Christmas access arrangement; that is access from 6.15 p.m. on Saturday, 24th December, 1994, until 6.00 p.m. on Sunday, 25th December, 1994; and from 6.15 p.m. on Thursday, 29th December, 1994, until 6.00 p.m. on Friday, 30th December, 1994; and from 10.00 a.m. until 6.00 p.m. on Monday, 2nd January, 1995.

If access is refused at any of the stated times or days, the respondent shall have leave to call upon the assistance of the Viscount or one of his officers to enforce the undertaking given to us. If the Viscount or one of his officers has to enforce the rights of the respondent to have access to the children, then the children shall stay with the respondent until further order of the Court.

No Authorities.