

Vancouver, B.C.
December 17, 2007

I will see what I can
find on sec 9, 21 and
29

THE CLERK: In the matter of Shiela Frances Gaffney v. Harold Cecil Gaffney.

MR. OLIVER: My Lord, Keith Oliver appearing for the applicant, Shiela Frances Gaffney. This is simply on three separate files, an application to settle the order. Mr. Gaffney has refused to sign any orders in this matter from start to finish and just because of the exigencies of getting done with the matter when it was heard on the 29th of November, I neglected to ask for his signature to be dismissed -- to be dispensed with at that time.

THE COURT: Mr. Oliver, I understand the frustrations which you and your client have felt that you have had to endure, but I simply don't believe that I have the authority to grant the order which you request. Rule 47 reads, in subsection (1) (b),

An order of the court or of a justice
(a) may be drawn by the party ...

-- and then,

(b) unless the court or justice otherwise directs, must be approved in writing by all parties with the solicitors of record ...

On the basis of that wording, I think only the court that made the decisions can dispense with the approval as to form and I say that because the introductory wording is "the court or a justice", but clause (b) is "unless the court or justice", which means the justice, so if it were a chambers matter, only the chambers justice could dispense with the requirement for approval in writing and I think with respect to a decision of the court, which I do gather these were --

MR. OLIVER: Yes, they are.

THE COURT: I believe it has to be the panel that has -- was the one that pronounced it, and I unfortunately think that you should have asked for this after Chief Justice Finch gave his oral reasons in the three appeals. In practical terms, you can try to get back before the panel, but I suspect it will be more expeditious to try and have the order settled before the registrar.

MR. OLIVER: I attempted to set this down before the registrar, but in view of Mr. Gaffney having a Section 29 order against him, the registry wouldn't do that. They put me into this chambers courtroom instead.

THE COURT: Well, that's most unfortunate because the Section 29 order is not directed at Mrs. Gaffney. It's directed --

MR. OLIVER: No. I agree. It was simply a decision made at the registry to put me into this courtroom rather than before the registrar.

THE COURT: That is unfortunate, but as I say, I --

MR. OLIVER: All right. Well, I will take Your Lordship's

comments down to the registry and see if they can correct that.

THE COURT: Yes, and you can encourage them, if they have some difficulties, to discuss it with me.

MR. OLIVER: Thank you, My Lord.

THE COURT: Madam Registrar, I think we will take the morning break before we deal with the next matter.

(PROCEEDINGS CONCLUDED)

Also you may want try to coax Mr Gaffney to settle...

REPORTER'S CERTIFICATE

I certify that this is a true and accurate transcript of these proceedings recorded on sound- recording apparatus, transcribed to the best of my skill and ability in accordance with applicable standards.

Doreen J. Johnson,
Court Reporter, Certificate Number 502

