

NOTE: PURSUANT TO S 125 OF THE DOMESTIC VIOLENCE ACT 1995 AND S 139 OF THE CARE OF CHILDREN ACT 2004, ANY REPORT OF THIS PROCEEDING MUST COMPLY WITH SS 11B TO 11D OF THE FAMILY COURTS ACT 1980. FOR FURTHER INFORMATION, PLEASE SEE [HTTP://WWW.JUSTICE.GOVT.NZ/COURTS/FAMILY-COURT/LEGISLATION/RESTRICTIONS-ON-PUBLICATIONS](http://www.justice.govt.nz/courts/family-court/legislation/restrictions-on-publications).

**IN THE FAMILY COURT
AT AUCKLAND**

**FAM-2015-004-000921
[2016] NZFC 2732**

IN THE MATTER OF THE DOMESTIC VIOLENCE ACT 1995
 THE CARE OF CHILDREN ACT 2004

BETWEEN PREMA TAMBOLI
 Applicant

AND DINESH DARZI
 Respondent

Hearing: 4 April 2016

Appearances: M Saini for the Applicant
 S Keith for the Respondent
 G Harrison as Lawyer for the Children

Judgment: 4 April 2016

ORAL JUDGMENT OF JUDGE T H DRUCE

[1] This is the matter of Tamboli and Darzi and concerns the parties' three children - Arya, aged 10; Aseem, aged seven, and Brin, aged three.

[2] The matter was set down today for a defended domestic violence hearing and for COCA safety findings.

[3] The parties have reached an agreed interim arrangement. I am satisfied that this is safe for the children, as the terms of the interim parenting order I am about to make ensure that at no time will the children be exposed to conflict or domestic violence between the parents.

[4] While the parties are living apart, the father is clear that he would like to reconcile with Ms Tamboli and she has indicated in response that she is considering that possibility. The risk here, for the children, is that the parties might prematurely reconcile before addressing the very serious domestic violence history in their relationship. The applicant, in her evidence on 29 September last year sets out, in a very coherent manner, her experience as a victim of domestic violence, both physically and psychologically and the lack of protective support she obtained from members of the father's family, the paternal grandparents and paternal siblings, who continue to live in the family home.

[5] While the applicant has sought leave to withdraw her application for a final parenting order and while Mr Darzi has completed a Stopping Violence programme with Shine (which is confirmed in writing by the men's programme coordinator); nevertheless the existing temporary protection order is to continue in force. I will deal with that in a review hearing in October or November, at a time to be allocated by the registrar, with half an hour being set down before me.

[6] Turning to the Care of Children Act proceedings, the children have been seen by their lawyer just this last weekend. They are reporting that the current arrangements for contact have been working very well for them. That involves supervision by a mutual friend of the parents, Raj.

[7] It is accepted by the applicant mother that the children are safe and well cared for within the father's home. So this is a usual and comfortable environment for the three children.

[8] The parents are agreed to the staged development of overnight contact. The father is in circumstances where he is on a [course details deleted] training course and can be fully available on Thursdays and Fridays for the remainder of this year, as well as weekends.

[9] The mother is a [course details deleted] student and is also available, other than during the week between the hours of 8.30 and 12.45.

[10] I am satisfied that provided the handovers are well managed and the communication rules are explicitly covered in this order, that the children can comfortably enjoy safe relationships with both parents for the next six-month period.

[11] In coming to this view though, I have signalled to the parties my awareness that there could be real risks of upset, particularly for the father (but perhaps also for the mother and the children) should it become clear that there will be no reconciliation between the parents. That is an obvious turning point in this case and provides the fundamental need for a review in six months.

[12] With that background, I now make an interim order varying the existing interim parenting order's provisions for contact to provide for a two-stage development of the children's care with their father as follows:

Stage 1:

Week 1: Commencing this Friday, 8 April, and on alternate weeks thereafter from the end of school (or 3.00 pm) to 11.00 am Saturday.

Week 2: From end of school Thursday (or 3.00 pm) until the commencement of daycare (for Brin) and school (for Aseem and Arya) on the Friday morning. To avoid doubt, it will be the father's responsibility to deliver all children to daycare / school on the Friday morning.

Stage 2:

Week 1: Commencing Friday 16 May from Friday end of school / 3.00 pm to 11.00 am Sunday

Week 2: From Thursday end of school / 3.00 pm to 11.00 am Saturday

[13] The above interim orders are subject to the following conditions:

- (a) All handovers, other than at school / pre-school, are to be personally carried out by Raj or the father's brother, Ashoka Darzi. Any variations of the arrangements are to be agreed to through Raj or the father's brother.
- (b) All communication between the parents is to be through either of Raj or Ashoka, whether that be by way of phone, text or email. To avoid doubt, there is to be no direct communication between the parents unless and until the mother, through her lawyer, gives a written consent in which event the terms of that consent are to be complied with by the father.

[14] There is no further requirement for supervision of the children's care with their father.

[15] The interim orders are to be reviewed on the following terms:

- (a) Lawyer for child is to file a report no later than 8 July as to the children's views and, after consulting with the school and parents, as to how settled the children are with the care arrangements.
- (b) The registrar is to refer L4C's report to me in chambers to be dealt with on the papers.

- (c) The orders are to be reviewed by way of a 45 minute hearing before me on the first available date after 21 October this year.

T H Druce
Family Court Judge