

APPENDIX TABLE OF CONTENTS

MICHIGAN COURT PROCEEDINGS

Appendix A

Order of the Michigan Supreme Court Denying Application for Leave to Appeal (June 1, 2021)	1a
--	----

Appendix B

Order of the Michigan Supreme Court Denying Motion for Reconsideration (September 8, 2021).....	2a
---	----

Appendix C

Unpublished Opinion of the Court of Appeals of the State of Michigan (September 17, 2020)....	3a
--	----

Appendix D

Opinion and Order Following Trial from the Circuit Court for the County of Oakland —Relevant Excerpts (April 12, 2019); OCCC Register of Action Dated April 15, 2019).....	28a
---	-----

Appendix E

Order of the Circuit Court for the County of Oakland Denying Defendant's Revised Motion to Dismiss for Lack of Subject Matter Jurisdiction (March 13, 2019; Register of Action dated March 14, 2019)	33a
--	-----

Appendix F

Order of the Circuit Court for the County of Oakland—Denying Defendant's Motion to Dismiss for Lack of Subject Matter Jurisdiction (March 4, 2019; Register of Action Dated March 5, 2019)	35a
--	-----

Appendix G

Opinion and Order of the Circuit Court for the
County of Oakland-Denying Defendant's
Motion for Summary Disposition to Enforce
Indian Antisuit Injunction on the Grounds of
Comity (November 29, 2018; Register of
Action dated December 4, 2018) 37a

Appendix H

Transcript of Non Jury Trial from the Circuit
Court for the County of Oakland-Relevant
Excerpts (February 11, 2019; Register of
Action dated February 21, 2019; MCOA
Docket # 349037, Event #5) 45a

Appendix I

Transcript of Motion for Stay or Proceedings
and Motion for Show Cause from the Circuit
Court for the County of Oakland-Relevant
Excerpts (January 9, 2019; MCOA Docket
#349037, Event #13) 53a

Appendix J

Transcript of Motion for Summary
Disposition to Enforce Indian Antisuit
Injunction on the grounds of comity, from the
Circuit Court of the Oakland County-
Relevant Excerpts-(October 24, 2018; OCCC
Register of Action dated 1-9-2029; MCOA
Docket #349037, Event #19) 60a

INDIAN COURT PROCEEDINGS

Appendix K

Indian Anti-suit Injunction Order (July 12, 2018)	63a
--	-----

Appendix L

Indian Anti-suit Injunction Order (June 21, 2018)	66a
--	-----

Appendix M

Indian Anti-suit Injunction Order (June 21, 2018)	69a
--	-----

Appendix N

Indian Anti-suit Injunction Order (April 27, 2018)	71a
---	-----

Appendix O

Indian Anti-suit Injunction Order (April 16, 2018)	74a
---	-----

Appendix A

1a

**ORDER OF THE MICHIGAN SUPREME
COURT DENYING APPLICATION
FOR LEAVE TO APPEAL
(JUNE 1, 2021)**

MICHIGAN SUPREME COURT
LANSING, MICHIGAN

VIJAYALAKSHMI THAMILSELVAN,

Plaintiff-Appellee,

v.

SIVAGNANAM THAMILSELVAN,

Defendant-Appellant.

SC: 162388

COA: 349037

Oakland CC: 2018-860600-DM

Before: Bridget M. MCCORMACK, Chief Justice.,
Brian K. ZAHRA, David F. VIVIANO, Richard H.
BERNSTEIN, Elizabeth T. CLEMENT, Megan K.
CAVANAGH, Elizabeth M. WELCH, Justices.

On order of the Court, the application for leave to appeal the September 17, 2020 judgment of the Court of Appeals is considered, and it is DENIED, because we are not persuaded that the questions presented should be reviewed by this Court.

**ORDER OF THE
MICHIGAN SUPREME COURT DENYING
MOTION FOR RECONSIDERATION
(SEPTEMBER 8, 2021)**

MICHIGAN SUPREME COURT
LANSING, MICHIGAN

VIJAYALAKSHMI THAMILSELVAN,

Plaintiff-Appellee,

v.

SIVAGNANAM THAMILSELVAN,

Defendant-Appellant.

SC: 162388

COA: 349037

Oakland CC: 2018-860600-DM

Before: Bridget M. MCCORMACK, Chief Justice.,
Brian K. ZAHRA, David F. VIVIANO, Richard H.
BERNSTEIN, Elizabeth T. CLEMENT, Megan K.
CAVANAGH, Elizabeth M. WELCH, Justices.

On order of the Court, the motion for reconsideration of this Court's June 1, 2021 order is considered, and it is **DENIED**, because we are not persuaded that reconsideration of our previous order is warranted. MCR 7.311(G).

**UNPUBLISHED OPINION OF THE COURT OF
APPEALS OF THE STATE OF MICHIGAN
(SEPTEMBER 17, 2020)**

STATE OF MICHIGAN
COURT OF APPEALS

VIJAYALAKSHMI THAMILSELVAN,

Plaintiff-Appellee,

v.

SIVAGNANAM THAMILSELVAN,

Defendant-Appellant.

No: 349037

Oakland Circuit Court LC No. 2018-860600-DM

Before: STEPHENS, P.J., an
O'BRIEN and REDFORD, JJ.

PER CURIAM

Defendant appeals as of right the parties' judgment of divorce (JOD). We affirm.

I. Background

In 1997, Indian citizens, Vijayalakshmi Thamilselvan (plaintiff) and Sivagnanam Thamilselvan (defendant), were married in India, through an arranged marriage. Three weeks after their wedding, defendant came to

Appendix C

4a

Florida for work and plaintiff followed in 1998. Two years later, in 2000, the parties moved to Michigan with their one-month old daughter. In 2006, they purchased a home in Farmington Hills. Some 11 years later, the marriage began to deteriorate, and in December 2017, plaintiff and the parties' then 17-year-old daughter left the marital home with the assistance of their daughter's school counselor. In January 2018, defendant filed a complaint for divorce in Oakland County and a motion for the return of the parties' minor child to the marital home, because he believed that if the minor child was returned home, plaintiff would follow and the parties could be reconciled. When neither plaintiff nor their daughter returned, defendant dismissed his complaint. In February 2018, plaintiff reinstituted the action by filing her own complaint for divorce alleging, among other issues, abuse in the home. Defendant then turned to the courts in India, where the parties had married, for relief. Defendant petitioned the Family Court in India for restoration of his conjugal rights, as a form of reconciliation or mediation with plaintiff. He also petitioned the High Court in Madras, India for an anti-suit injunction to prevent plaintiff from continuing her action in Oakland County. Defendant then, filed an answer to plaintiff's complaint wherein he denied any abuse in the home. Plaintiff retained counsel in India to respond to defendant's petition that an anti-suit injunction issue, but after multiple hearings, the injunction became a final order on July 12, 2018. Approximately two weeks later, defendant moved the Oakland County court to amend his answer to plaintiff's complaint for the reason that his attorney erroneously admitted to allegations that the parties were

Appendix C

5a

residents of the state of Michigan immediately before the complaint was filed. That amendment was denied.

Defendant filed the first of two motions to dismiss in November 2018. Defendant argued under MCR 2.116(C)(10) that India was the proper jurisdiction over the parties' divorce where the parties were Indian citizens, and that the Indian anti-suit injunction was enforceable in Michigan under principles of comity to dismiss plaintiff's complaint. The trial court denied the motion finding that Michigan had jurisdiction over the parties, and that it possessed discretion to overlook the injunction when its enforcement would contravene plaintiff's legal right to a divorce. Defendant was denied interlocutory review of that order.

Defendant filed his second motion to dismiss mid-trial in February 2019. Defendant argued under MCR 2.116(C)(4) that the Oakland County court lacked subject matter over the parties' divorce because the parties were Indian citizens and plaintiff had not resided in Michigan for 180 days immediately preceding the complaint filing where plaintiff and defendant were in India for one month. The court treated this motion as an untimely motion for reconsideration of defendant's first motion to dismiss and denied the motion.

An opinion and order following the trial was issued in April 2019 granting plaintiff's complaint for divorce, dividing the parties' property, and awarding plaintiff attorney fees. Defendant was denied appellate review of that order because it was not yet a final order. Thereafter, defendant filed motions for relief from judgment and for reconsideration that were also denied. The JOD issued afterward on May 23, 2019, giving rise to the instant appeal.

Appendix C

6a

On appeal, defendant argues that the court abused its discretion when it denied his request for a continuance on the last day of trial to present evidence of the Indian properties' value. Defendant also challenges the trial court's denial of both of his motions for summary disposition and his motion for relief from judgment.

II. Summary Disposition Motions

A. Subject Matter Jurisdiction

Defendant argues that the trial court erred when it found the parties satisfied the jurisdictional residency requirements to file a complaint for divorce and denied his motion for summary disposition under MCR 2.116 (C)(4). We disagree.

1. Standard of Review

"Jurisdictional questions under MCR 2.116(C)(4) are questions of law that are . . . reviewed de novo." *Travelers Ins Co v. Detroit Edison Co*, 465 Mich 185, 205; 631 N.W.2d 733 (2001). "In considering a motion challenging jurisdiction under MCR 2.116(C)(4), a court must determine whether the affidavits, together with the pleadings, depositions, admissions, and documentary evidence, demonstrate that the court lacks subject matter jurisdiction." *CC Mid West, Inc v. McDougal*, 470 Mich 878, 878; 683 N.W.2d 142 (2004).

Whether a party has satisfied the residency requirement in MCL 552.9(1), presents a question of fact. *Berger v. Berger*, 277 Mich App 700, 702; 747 N.W.2d 336 (2008). "Findings of fact by the trial court may not be set aside unless clearly erroneous." MCR 2.613(C). In a divorce action, "[a] finding is clearly

Appendix C

7a

erroneous if, after a review of the entire record, the reviewing court is left with a definite and firm conviction that a mistake has been made.” *McNamara v. Horner (After Remand)*, 255 Mich App 667, 669; 662 N.W.2d 436 (2003). “Special deference is afforded to a trial court’s factual findings that are based on witness credibility.” *Hodge v. Parks*, 303 Mich App 552, 555; 844 N.W.2d 189 (2014).

2. Analysis

MCL 552.9(1) provides, in part, that:

A judgment of divorce shall not be granted by a court in this state in an action for divorce unless the complainant or defendant has resided in this state for 180 days immediately preceding the filing of the complaint and, except as otherwise provided in subsection (2)[¹], the complainant or defendant has resided in the county in which the complaint is filed for 10 days immediately preceding the filing of the complaint.

Notably, the statute’s language only requires that one party, either the complainant or defendant, meet the residency requirement. “Residence in Michigan is defined as a place of abode accompanied with the intention to remain.” *Leader v. Leader*, 73 Mich App 276, 280; 251 N.W.2d 288 (1977). “Domicile and residence in Michigan are synonymous terms.” *Id.* “For

¹ Subsection (2) applies when the defendant is a citizen of a different country, the parties have minor children, and the children are at risk of being taken out of the country. The subsection is not implicated here where the parties’ only child had reached the age of majority at the time of the trial for divorce.

Appendix C

8a

many purposes, residence must be considered in light of a person's intent. Presence, abode, property ownership and other facts are often considered, yet intent is the key factor." *Id.* at 281 (internal citation omitted).²

Defendant first argues that the parties had not resided in Michigan for 180 days immediately preceding plaintiff's February 12, 2018 filing of the complaint for divorce because the parties had visited India for one-month, from August 1, 2017 to September 1, 2017, thereby interrupting the 180-day residency requirement. This argument is without merit. In *Berger v. Berger*, this Court held that MCL 552.9(1) did not require a plaintiff's continuing physical presence. 277 Mich App at 703. The Court held that once the plaintiff had shown an established residency and an intent to remain, a temporary absence from the jurisdiction had not divested the court of jurisdiction. *Id.* On another occasion, this Court held that the plaintiff had satisfied

² We acknowledge plaintiff's position that defendant submitted to the jurisdiction of the Oakland County court twice, once in his complaint for divorce and again in his answer to plaintiff's complaint for divorce. Further, that at the hearing on defendant's MCR 2.116(C)(10) motion for summary disposition, defendant's counsel stated, "I'm not contesting the jurisdiction of the court". Even so, because the jurisdiction of the court is purely statutory in accord with MCL 552.9, it cannot be conferred on the court by consent of the parties. *Stamadianos v. Stamadianos*, 425 Mich 1, 8; 385 N.W.2d 604 (1986). "The court must make its own determination regarding the existence of a statutory basis for jurisdiction." *In re Hatcher*, 443 Mich 426, 433; 505 N.W.2d 834 (1993), overruled on other grounds *In re Ferranti*, 504 Mich 1; 934 N.W.2d 610 (2019). "[A] court is continually obliged to question sua sponte its own jurisdiction over a person, the subject matter of an action, or the limits of the relief it may afford[.]" *Yee*, 251 Mich App at 399.

Appendix C

9a

the 180-day state residency requirement of MCL 552.9(1) despite a four-month absence from Michigan where the plaintiff had shown an intent that her residence remained in Michigan. *Leader*, 73 Mich App at 280.

There is ample record support for a determination that the residency requirements were met here. There were several undisputed facts that support such a finding:

1. The parties had lived in Michigan for over 18 years, having moved here from Florida in August 2000, with their one-month old daughter.
2. The parties obtained continuous employment in Michigan from 2000 forward.
3. The parties' daughter was born in the United States and educated in Michigan.
4. The parties purchased the marital home in Farmington Hills in 2006 and also purchased an investment property in Detroit.
5. They paid Michigan resident income taxes each year.

The parties testified differently concerning their intent to reside and remain in Michigan. Plaintiff testified that Michigan was her home, while defendant testified that India was the parties' home. The court found the plaintiff's testimony credible and we defer to that credibility determination. *Hodge*, 303 Mich App at 555. The defendant did offer the court documentary evidence to support his position that neither party was a Michigan resident. He offered banking

Appendix C

10a

and passport renewal documents as well as the evidence concerning the purchase of residential property in India in Choolaimedu. The plaintiff testified to physical abuse and stated that the defendant controlled the family finances and that they never lived in the Indian residence. Plaintiff also testified that it was defendant who completed the passport renewal document and drove plaintiff to the notary and told her where to sign. Finally, plaintiff testified unequivocally that it was her intent to only visit India and not to reside there.

Defendant asks us to disregard the parties' long tenure in Michigan citing *Leader* which noted, that "physical presence for a longer period of time is no longer the key factor it once was," 73 Mich App 281. Relying on *Leader*, defendant argues that a "mere change of residence to Michigan, although continued for a long time, does not effect a change of domicile." He further argues that in accord with *Leader*, "a domicile, once shown to exist, is presumed to continue until the contrary is shown." First, the trial court had much more than mere long-term presence in the state on which to rely. The purchase of property, payment of taxes, education of the minor child, and employment were also considerations in this case. Further, the court found that Michigan was the domicile and, therefore, it would have required proofs of abandonment of that domicile for the defendant to prevail. Lastly, we note that since domicile of only one party suffices for jurisdiction, once the court found that the plaintiff was credible regarding her intent during the sojourn to India, the court had evidentiary support for its jurisdictional determination

Appendix C

11a

We reject defendant's last jurisdictional argument that since the parties' marriage was solemnized under the Hindu marriage act of 1955, the Indian court had exclusive jurisdiction over any dissolution. The cited reference to the act presented by the defendant addresses "petitions under this act," This defendant did not petition for dissolution in India. To the contrary, he petitioned to restore conjugal rights and to enjoin any dissolution action.

B. Comity

Defendant argues that the trial court erred in finding that the Indian anti-suit injunction was not entitled to comity and in denying his motion for summary disposition under MCR 2.116(C)(10). We disagree.

1. Standard of Review

"This Court reviews de novo the grant or denial of a motion for summary disposition to determine if the moving party is entitled to judgment as a matter of law." *Lowrey v. LMPS & LMPJ, Inc*, 500 Mich 1, 5-6; 890 N.W.2d 344 (2016).

A motion under MCR 2.116(C)(10) tests the factual sufficiency of the complaint. In evaluating a motion for summary disposition brought under this subsection, a trial court considers affidavits, pleadings, depositions, admissions, and other evidence submitted by the parties, MCR 2.116(G)(5), in the light most favorable to the party opposing the motion. Where the proffered evidence fails to establish a genuine issue regarding any material fact, the moving party is entitled to judgment as a matter of law. MCR 2.116(C)

Appendix C

12a

(10), (G)(4). [*Maiden v. Rozwood*, 461 Mich 109, 120; 597 N.W.2d 817 (1999)].

“Both the trial court’s determination that it had subject-matter jurisdiction and that the foreign judgment was appropriately enforced based on the principle of comity are reviewed de novo by this Court.” *Gaudreau v. Kelly*, 298 Mich App 148, 151; 826 N.W.2d 164 (2012). “Findings of fact by the trial court may not be set aside unless clearly erroneous.” MCR 2.613(C). “In the application of this principle, regard shall be given to the special opportunity of the trial court to judge the credibility of the witnesses who appeared before it.” *Id.* “A finding is clearly erroneous when, although there is evidence to support it, the reviewing court on the entire record is left with the definite and firm conviction that a mistake has been committed.” *Walters v. Snyder*, 239 Mich App 453, 456; 608 N.W.2d 97 (2000).

2. Analysis

Comity is defined as the recognition which one nation allows within its territory to the legislative, executive, or judicial acts of another nation, having due regard both to international duty and convenience and to the rights of its own citizens or of other persons who are under the protection of its laws. [*Bang v. Park*, 116 Mich App 34, 39; 321 N.W.2d 831 (1982) (citation omitted)].

“The rule of comity is not allowed to operate when it will contravene the rights of a citizen of the State where the action is brought.” *Keehn v. Charles J Rogers, Inc.*, 311 Mich 416, 425; 18 N.W.2d 877 (1945). It is a discretionary doctrine. *Hare v. Starr Commonwealth*

Appendix C

13a

Corp, 291 Mich App 206, 221; 813 N.W.2d 752 (2011). “United States courts are not required by Federal law to give full force and effect to a judgment granted in another country, but foreign judgments may be recognized under the doctrine of comity, as indicated in *Growe*, [*infra*].” *Bang*, 116 Mich App at 39. In *Growe v. Growe*, 2 Mich App 25, 33; 138 N.W.2d 537 (1965), “this Court indicated that the factors to be considered in determining whether a foreign judgment should be accorded comity were whether or not the basic rudiments of due process were followed, whether the parties were present in court, [and] whether a hearing on the merits was held.” *Dart v. Dart*, 224 Mich App 146, 154–155; 568 N.W.2d 353 (1997).

Whether the parties were afforded fundamental due process in the Indian anti-suit injunction proceedings is not disputed. However, the trial court here rightly asserted its discretion of whether or not to enforce that injunction because enforcement would infringe upon plaintiff’s legal right to obtain a divorce in the state of Michigan. In *State Bar v. Cramer*, our Supreme Court discussed this state’s reason for adopting the no-fault divorce law, MCL 552.6: “that this revision in the divorce law was made in the belief that when the marriage relationship has terminated, granting of the divorce should flow as an inalienable legal right.” *Cramer*, 399 Mich 116, 135; 249 N.W.2d 1 (1976) (internal citations omitted). “Since that time, it has been the law that a marriage will only be recognized if two parties agree, but a divorce will be granted upon the request of only one of the original marrying parties, *i.e.*, even over the objection of one of the marrying parties.” *Draggoo v. Draggoo*, 223 Mich

Appendix C

14a

App 415, 424; 566 N.W.2d 642 (1997). Dismissing plaintiff's complaint for divorce would deprive her of her right to obtain a no-fault divorce. Defendant's comparison of his case to *Dart v. Dart* is unavailing. In *Dart*, the wife filed for divorce in Michigan four days after the husband had filed for divorce in England. 224 Mich App at 148. After the English court entered a judgment of divorce, the husband moved for a stay of the Michigan proceedings and enforcement of the English order under the doctrine of comity. *Id.* at 149-150. This Court reversed the trial court and granted the husband relief where it found the requirements of due process were complied with in the English court proceedings. *Id.* at 151-155. Defendant's case is not like *Dart*. A divorce proceeding was never filed in India and the parties were not granted a divorce in India thus, there is no final judgment of divorce to enforce.

Viewing the evidence in the light most favorable to plaintiff, the trial court did not err in denying defendant's motion for summary disposition under MCR 2.116(C)(10).

III. Request for Continuance

Defendant argues that the trial court abused its discretion when it denied his request for a continuance to present evidence of the value of the Indian properties. We disagree.

A. Standard of Review

"This Court reviews for an abuse of discretion the trial court's decision whether to adjourn or continue a proceeding." *Johnson v. Johnson*, 329 Mich App 110,

Appendix C

15a

118; 940 N.W.2d 807 (2019). “A court abuses its discretion when its decision falls outside the range of reasonable and principled outcomes.” *Foster v. Foster*, ___ Mich ___; ___ N.W.2d ___ (2020).

B. Analysis

Trial adjournments are governed by MCR 2.503. Under the rule, “a request for an adjournment must be by motion or stipulation made in writing or orally in open court and is based on good cause.” MCR 2.503(B)(1). “A motion to adjourn a proceeding because of the unavailability of . . . evidence must be made as soon as possible after ascertaining the facts.” MCR 2.503(C)(1). The adjournment may be granted “only if the court finds that the evidence is material and that diligent efforts have been made to produce the . . . evidence.” MCR 2.503(C)(2).

The record reflects that defendant did not request a continuance:

Defendant: I thought I can get here next hearing so I didn’t prepare for that so I don’t remember, so you—you gave me 24 hours to respond so if I remember anything, I will submit it.

Court: Yes, but it can’t—the proofs are closed so you can’t submit anymore evidence or witnesses. But you can—you have 24 hours to submit anything supplemental in argument if you would like.

Defendant: Mmhmm.

Appendix C

16a

This record rather demonstrates that defendant was unprepared for closing argument and could not remember everything he wanted to argue to the court. Further, he expressed satisfaction with the court's offer to allow him to supplement his argument after the trial. After this colloquy, the court admitted defendant's deeds of sale for the Indian properties, which defendant asserted represented the value of the properties. Thereafter, defendant filed two voluminous addendums to the evidence. After trial, defendant found what he considered better valuation evidence of the Indian properties. However, defendant fails to show that this information was unavailable to him before or during the trial, or that he diligently sought, but could not find the evidence. MCR 2.503(C).

On appeal, defendant now asserts he was disadvantaged by having to represent himself and that the court's animus toward him affected his presentation of evidence. Defendant's counsel was allowed to withdraw from representing defendant approximately 11 days before trial was scheduled to begin. Defendant argues that this event, the complexities of his case, and the court having frozen his assets, forced him to represent himself at trial.

There were four defense counsel in this case. Defendant asserts that although the fourth attorney did not file a motion to withdraw until January 31, eight days before the scheduled trial date, he had wanted to discharge her as early as the previous October. We note that the withdrawal of counsel would not have absolutely entitled defendant to a continuance. *Bye v. Ferguson*, 138 Mich App 196, 207; 360 N.W.2d 175 (1984). In any case, he did not ask for an adjournment when counsel's motion to withdraw was

Appendix C

17a

granted and the trial date was moved from February 8th until February 11th. Additionally, the record reflects the trial court indicated that while some of defendant's funds were frozen, funds would be released to pay for a fifth attorney. Defendant did not request those funds and exercised his right to represent himself.

Defendant fails to support his additional contention, that the court believed his multiple motions were annoying and harassing, with citations to the record. This Court will not search for authority to support plaintiff's position. *Guardiola v. Oakwood Hospital*, 200 Mich App 524, 536; 504 N.W.2d 701 (1993).

IV. Motion for Relief from Judgment

Defendant argues that he is entitled to relief from the trial court's April 12, 2019 Opinion and Order, concerning the division of property and the allocation of attorney fees. We disagree.

A. Standard of Review

"A trial court's decision on a motion for relief from judgment is reviewed for an abuse of discretion." *Yee v. Shiawassee Co Bd of Com'rs*, 251 Mich App 379, 404; 651 N.W.2d 756 (2002). "A trial court's decision to admit or exclude evidence is reviewed for an abuse of discretion." *Edry v. Adelman*, 486 Mich 634, 639; 786 N.W.2d 567 (2010). "A court abuses its discretion when its decision falls outside the range of reasonable and principled outcomes." *Foster*, ___ Mich at ___.

B. Analysis

Relief from a judgment or order is governed by MCR 2.612. The grounds for relief are listed in subsection (C)(1):

- (a) Mistake, inadvertence, surprise, or excusable neglect.
- (b) Newly discovered evidence which by due diligence could not have been discovered in time to move for a new trial under MCR 2.611(B).³
- (c) Fraud (intrinsic or extrinsic), misrepresentation, or other misconduct of an adverse party.
- (d) The judgment is void.
- (e) The judgment has been satisfied, released, or discharged; a prior judgment on which it is based has been reversed or otherwise vacated; or it is no longer equitable that the judgment should have prospective application.
- (f) Any other reason justifying relief from the operation of the judgment. [MCR 2.612(C)(1)].

Defendant argues he was entitled to relief under (C)(1)(b) and (C)(1)(f).

Under MCR 2.612(C)(1)(b), defendant claimed that discovery of the property values from the Indian government was newly discovered evidence that would have rebutted plaintiff's valuation evidence. In his motion for relief from judgment, defendant offered for

³ MCR 2.611(B) provides that "[a] motion for a new trial made under this rule or a motion to alter or amend a judgment must be filed and served within 21 days after entry of the judgment."

Appendix C

19a

each Indian property, a “Declaration of Value of the Property” purportedly from the Tamil Nadu, India Government Guideline Value. The Declaration of Value for the Choolaimedu property was 4,869,158 rupees, which defendant represented was approximately \$70,126.02, based on the May 2019 rupees to dollar exchange rate, and the Siruseri property was valued at 1,778,850.00 rupees, which defendant represented was approximately \$25,619.15, again based on the then-current exchange rate. Taken together, defendant’s valuation of the Indian properties was approximately \$96,000. Plaintiff relied on an Indian real estate website called Magic Bricks to calculate her approximate value of the Indian properties at \$271,000. The difference between the two valuations was approximately \$175,000.

There are four requirements that must be met for newly discovered evidence to support a motion for postjudgment relief: (1) the evidence, not simply its materiality, must be newly discovered, (2) the evidence must not be merely cumulative, (3) the newly discovered evidence must be such that it is likely to change the result, and (4) the party moving for relief from judgment must be found to have not been able to produce the evidence with reasonable diligence. [*S Macomb Disposal Auth v. Am Ins Co*, 243 Mich App 647, 655; 625 N.W.2d 40 (2000)].

Defendant fails to show that his Indian valuation evidence was newly discovered and that he was entitled to relief under MCR 2.612(C)(1)(b). In his motion for relief from judgment, defendant did not claim that the Indian government’s “Declaration of Value of the

Appendix C

20a

Property” was unavailable to him at any point during or before the trial. Neither did he claim that he sought valuation evidence different from or better than the deeds of sale, and found none. Rather, he admitted that after he requested the information from the Indian government, he received it one week later. This fact negates that defendant, with due diligence, could not have discovered the evidence.

Defendant blamed his failure to introduce additional valuation evidence on his attorney withdrawing just before trial. Prior to withdrawal, counsel submitted a trial brief on defendant’s behalf and after, defendant supplemented that trial brief twice with over 400 pages of evidence. Defendant claims something akin to surprise regarding the need for evidence regarding the then-present value of the foreign properties. It is for this reason, he argues, that he only submitted the deed. However on January 24th, prior to his counsel filing the motion to withdraw and prior to his supplementation of the pre-trial brief of counsel, plaintiff submitted her trial brief with an exhibit listing the real estate included in the marital estate and its value. Plaintiff listed the value of the Indian properties as \$285,000. The trial court did not abuse its discretion in denying relief from judgment under MCR 2.116(C)(1) where defendant’s valuation evidence from the Indian government was not newly discovered evidence which by due diligence he was unable to discover.

The trial court otherwise did not abuse its discretion in accepting plaintiff’s valuation evidence of the Indian properties. Plaintiff not only offered the Magic Bricks’ exhibit, but her own testimony as to the properties’ value. “A lay witness will be permitted to testify as to the value of land if he has seen the land and has

Appendix C

21a

some knowledge of the value of other lands in the immediate vicinity.” *City of Grand Rapids v. HR Terryberry Co*, 122 Mich App 750, 753; 333 N.W.2d 123 (1983). MRE 602 provides that a lay witness may testify to matters that the witness has personal knowledge of and that “[e]vidence to prove personal knowledge may, but need not, consist of the witness’ own testimony.” MRE 701 further provides that,

[i]f the witness is not testifying as an expert, the witness’ testimony in the form of opinions or inferences is limited to those opinions or inferences which are (a) rationally based on the perception of the witness and (b) helpful to a clear understanding of the witness’ testimony or the determination of a fact in issue.

Plaintiff testified from personal knowledge that the Choolaimedu property consisted of a 1,253 square foot home and that it was located in a desirable part of India with other homes that were really high in property value. She testified that the Siruseri property was a 1,062 square foot apartment. Plaintiff inputted the information she knew about the properties into the Indian real estate website, Magic Bricks. Plaintiff testified that her sisters, who still lived in India, told her the site was reliable. Magic Bricks valued the Choolaimedu home at \$207,627 and the Siruseri apartment at \$64,000 based on the average price of Indian real estate per square foot, translated into U.S. dollars. Plaintiff believed the estimate for the Choolaimedu property was low given her knowledge of the neighborhood. Defendant objected at trial to the use of the Magic Bricks’ website as unreliable and in his motion for relief from judgment, he argued that testimony as to the reliability of the website was hearsay because

Appendix C

22a

it came from plaintiff's sisters who did not testify at trial. The court admitted the evidence under MRE 803(17) which excepts from the rule against hearsay, "[m]arket quotations, tabulations, lists, directories, or other published compilations, generally used and relied upon by the public or by persons in particular occupations." The court's decision was not an abuse of discretion. Plaintiff's valuation testimony was relative to a fact at issue *i.e.*, the value of the Indian property, and properly admitted based on her personal knowledge of the properties, the area where the properties were situated, and her trips to the properties' locations. The Magic Bricks' valuation was properly admitted under MRE 803(17) as market quotations relied on by the public or persons in particular occupations where plaintiff testified that she conversed with relators and family members living in India concerning the properties' valuation and use of the website.

Defendant also argued that MCR 2.612(C)(1)(f) applied because it allowed the court to consider: 1) the fact that defendant did not have an attorney nor was given ample time to retain an attorney, and 2) its allocation of nearly all the attorney fees to him.

In order for relief to be granted under MCR 2.116(C)(1)(f), the following three requirements must be fulfilled: (1) the reason for setting aside the judgment must not fall under subsections a through e, (2) the substantial rights of the opposing party must not be detrimentally affected if the judgment is set aside, and (3) extraordinary circumstances must exist that mandate setting aside the judgment in order to achieve justice. [*Heugel*

Appendix C

23a

v. Heugel, 237 Mich App 471, 478-479; 603 N.W.2d 121 (1999)].

In the trial court and again on appeal, defendant failed to address any of the *Heugel* requirements and consequently, his entitlement to relief.

Nevertheless, even if defendant had applied *Heugel*, he would not be entitled to relief under (C)(1)(f). Defendant's reasons for relief concerning counsel's withdrawal and attorney fees met the first *Heugel* requirement because they did not otherwise fall under subsections a through e, however they fail to meet the second and third *Heugel* requirements.

As for the second requirement, plaintiff's substantial rights would be detrimentally affected if the judgment as to the court's property distribution and attorney fees were set aside because such relief would reward defendant for his lack of due diligence and improper conduct, and financially burden plaintiff. Attorney fees are not recoverable by right, but are authorized by both statute, MCL 552.13, and court rule, MCR 3.206(D). *Reed v. Reed*, 265 Mich App 131, 164; 693 N.W.2d 825 (2005). An exception is when "the party requesting payment of the fees has been forced to incur them as a result of the other party's unreasonable conduct in the course of the litigation." *Stackhouse v. Stackhouse*, 193 Mich App 437, 445; 484 N.W.2d 723 (1992). Defendant's motion for relief challenged the court's order that he pay attorney fees to plaintiff's attorney and plaintiff's appellate attorney.

The court ordered defendant to pay \$31,250 in attorney fees to plaintiff's attorney. Defendant argued that when he was ordered to pay this amount from his share of the marital estate, a large disparity then

Appendix C

24a

existed between the parties' marital shares of the estate, with plaintiff being awarded \$375,000 and defendant \$339,270. "The goal in distributing marital assets in a divorce proceeding is to reach an equitable distribution of property in light of all the circumstances." *Berger v. Berger*, 277 Mich App 700, 716-717; 747 N.W.2d 336 (2008). "The trial court need not divide the marital estate into mathematically equal portions, but any significant departure from congruence must be clearly explained." *Id.* at 717. The court explained that it was dividing the amount of the marital assets that defendant spent on attorney fees in half, and awarded that amount to plaintiff for her attorney fees. MCR 3.206(D) authorizes the court to order a party to pay attorney fees and expenses for the other party where they "were incurred because the other party refused to comply with a previous court order, despite having the ability to comply, or engaged in discovery practices in violation of these rules." to equalize the amount of marital estate assets spent on attorney fees. The court found, and defendant did not dispute, that defendant used \$62,500 of marital assets to pay his attorney fees during this case. Defendant failed to include this amount in his calculations of his share of the marital estate. Dividing the amount that defendant improperly used on attorney fees in half and distributing that portion to plaintiff was equitable.

The court also ordered that defendant pay the attorney fees for plaintiff's appellate attorney Susan Lichterman because his appeal challenging the jurisdiction of the court was unnecessary and frivolous. "A claim is frivolous when (1) the party's primary purpose was to harass, embarrass, or injure the prevailing

Appendix C

25a

party, or (2) the party had no reasonable basis upon which to believe the underlying facts were true, or (3) the party's position was devoid of arguable legal merit." *Cvengros v. Farm Bureau Ins*, 216 Mich App 261, 266-267; 548 N.W.2d 698 (1996) citing MCL 600.2591(3)(a). Defendant twice admitted jurisdiction was proper with the Oakland County court in his own complaint and in his answer to plaintiff's complaint. Defendant further acknowledged having lived in the United States for over 20 years. Despite those admissions, defendant pursued an appeal of jurisdiction. Disingenuously, defendant claimed that he had not read either pleading. The trial court found that testimony incredible. Lichterman testified that she reduced her bill for attorney fees considerably. The bill was originally \$22,000 and she discounted it by \$10,000. Plaintiff paid a \$7,500 retainer. It was not unreasonable for the court to order defendant to pay approximately \$5,000 in appellate attorney fees for defendant pursuing a frivolous action.

Defendant also claimed he was unable to bear the expense of an additional amount of \$9,820 in attorney fees because his salary was less than plaintiff's and all the debt was allocated to him. Plaintiff testified that she earned approximately \$55,000 annually. Defendant testified he earned \$30,000.

In determining the \$9,820 amount the trial court explained that it

painstakingly went through each billable item to determine what costs were clearly unnecessarily incurred by Wife due to Husband's actions. The Court considered costs such as dealing with the futile appeal, the wrongful legal action being pursued in India, multiple

Appendix C

26a

motions to compel compliance with orders, repeated attempts by Husband to get this matter dismissed, and motions to show cause to be wrongfully incurred by Wife.

Defendant did not contest the court's calculation of \$9,820 and the court sufficiently justified the award. Therefore, the court did not abuse its discretion in awarding the additional amount to plaintiff.

Addressing the third requirement in *Heugel*, defendant's circumstances did not rise to the level of extraordinary. "The caselaw construing MCR 2.612(C)(1)(f) contemplates that extraordinary circumstances warranting relief from a judgment generally arise when the judgment was obtained by the improper conduct of a party." *Rose v. Rose*, 289 Mich App 45, 62; 795 N.W.2d 611 (2010) citing *Heugel*, 237 Mich App at 479. There has been no claim of misconduct by plaintiff to warrant relief from judgment. Further, while an attorney's abandonment of, or withdrawal from, a client's case may be considered an extraordinary circumstance under MCR 2.612(C)(1)(f), that has generally only been found to be the case where the defendant had no notice of his counsel's withdraw and was not given ample time to find other counsel. See *Pascoe v. Sova*, 209 Mich App 297; 530 N.W.2d 781 (1995), and *Bye v. Ferguson*, 138 Mich App 196; 360 N.W.2d 175 (1984).⁴ In this case, 1) defendant

⁴ See also *Wykoff v. Winisky*, 9 Mich App 662, 664; 158 N.W.2d 55 (1968), where the trial court allowed defense counsel to withdraw on the day of trial and denied the defendants' request for a continuance, basically requiring that they represent themselves during trial. *Id.* at 666. This Court affirmed the trial court's decision, reasoning that had the defendants acted with reasonable diligence, they had ample time to obtain counsel in whom they

Appendix C

27a

expressed a desire to retain new counsel months before trial but did not, 2) defendant acted in propria persona throughout these proceedings by filing documents with the court on his own and without his counsel's knowledge, 3) counsel filed a motion to withdraw over a week before trial, and 4) counsel filed a trial brief on defendant's behalf before trial. Additionally, as noted, the court's allocation of attorney fees was not an extraordinary circumstance, but reasonable based on defendant's improper conduct throughout the case. The court strived to achieve an equitable distribution of the marital estate.

In sum, defendant was not entitled to relief from judgment 1) where the Indian government valuation evidence he offered after trial was not newly discovered and, 2) defendant failed to show: a) that setting aside the judgment would not detrimentally affect plaintiff's rights and b) counsel's withdraw or the court's award of attorney fees were extraordinary circumstances.

Affirmed.

/s/ Cynthia Diane Stephens

/s/ Colleen A. O'Brien

/s/ James Robert Redford

had confidence. *Id.* at 668–669. This Court further noted that at a proceeding held approximately four months before trial, one of the defendants informed the court he wished to represent himself. *Id.* at 667–668.

**OPINION AND ORDER FOLLOWING TRIAL
FROM THE CIRCUIT COURT FOR THE
COUNTY OF OAKLAND-RELEVANT
EXCERPTS (APRIL 12, 2019; OCCC REGISTER
OF ACTION DATED APRIL 15, 2019)**

STATE OF MICHIGAN
IN THE CIRCUIT COURT FOR THE COUNTY
OF OAKLAND, FAMILY DIVISION

VIJAYALAKSHMI THAMILSELVAN,

Plaintiff,

v.

SIVAGNANAM THAMILSELVAN,

Defendant.

Case No: 2018-860600-DM

Before: Hon. Karen D. MCDONALD, Judge.

Plaintiff, Ms. Vijayalakshmi Thamilselvan, ("Wife"), and Defendant, Sivagnanam Thamilselvan, ("Defendant") were married in Chennai, India in November 1997. Husband came to the United States in 1994 and obtained his permanent resident/green card in 1998. Wife immigrated to Florida in 1998 and obtained her permanent resident card in 1999. The parties have one daughter who was a minor at the time of filing but has now reached the age of majority and is attending college. Husband filed a Complaint for Divorce on

Appendix D

29a

January 17, 2018. Wife retained counsel, who filed an appearance on January 25, 2018. Husband then dismissed his divorce action on February 1, 2018, without informing the Court that attorneys had appeared on the matter. On February 12, 2018, Wife filed her Complaint for Divorce, which initiated these proceedings.

While the divorce was pending in this Court, Husband filed a Conjugal Rights Petition in the family court in Chennai, India on March 3, 2018. On April 6, 2018, Husband filed another petition in the High Court of Judicature at Madras, requesting a judgment or decree declaring any orders or judgments made by this Court be void and unenforceable. On September 5, 2018, Husband filed a Motion for Summary Disposition asking this case to be dismissed for lack of jurisdiction and seeking enforcement of the orders issued by the Indian courts. This motion was denied by this Court on November 29, 2018. However, the Court notes that Husband has continued to ask for the same form of relief repeatedly in subsequent filings that the Court was forced to address.

The Court conducted trial on February 11, 2019, March 8, 2019, and April 5, 2019. The material issues in dispute are property division and an award of attorney fees.

TRIAL

Defendant Husband Sivagnanam Thamilselvan

During his opening statement, Husband explained that he does not know why Wife and his daughter left. He also stated that he respects his culture, so he wants to get divorced in India. Wife called him to the

Appendix D

30a

stand to testify as her first witness. Husband testified that he is 55 years old, speaks, reads, and writes the English language and does not require an interpreter. He indicated that he was offered and accepted a job on February 4 as a lab technician, making \$30,000 annually. His previous employment was \$98,000 per year when he was paid by a grant and he is not trying to obtain a grant now. Husband testified he is college educated and has a PhD in biochemistry. He agreed that he files income taxes in the United States and the State of Michigan and also receives tax deductions. Husband stated that he prepares his own taxes with the help of Turbo Tax. He further reiterated that he does not want to be divorced.

Husband admitted he did file a Petition for Conjugal Rights on March 3, 2018, in India after the divorce was filed here.¹ Husband explained that although he does not know what “conjugal” means in this country, he believes it means that he and Wife continue living together as a family. When asked if he wanted the court in India to order Wife to return to live with Husband and have sex with him, he responded, “As a family, yes.” Upon further questioning, when asked if he understood that in this country when people are forced to have sex with someone, even when it is their spouse, it is considered, rape, Husband responded “Here it is a contract marriage, but in Hindu it is more than that.” He stated affirmatively that he wants the Indian court to order Wife to live with him, sleep with him, and have sex with him. Husband acknowledged specifically asking this Court to enforce the orders of the Indian court. He also acknowledged that

¹ See Plaintiff's Exhibit 2.

Appendix D

31a

his Answer to the Complaint admits that this Court had jurisdiction.²

Husband testified that he did not read the Complaint that was served on him because he wasn't interested due to his stress level. He did, however, retain an attorney to proceed with the case. Husband acknowledged that he did, in fact file for divorce first.³ He testified that he signed the Complaint without reading it, despite it being a verified complaint indicating that the signer had read it. Husband stated that he sometimes lies when he is stressed. When reviewing the order of dismissal signed by Husband and entered by this Court on January 30, 2018, Husband explained that he did not fill in the space for his attorney or Wife's attorney because he was too stressed to see the boxes that he needed to fill in.⁴ He agreed that this kind of thing happens, along with lying, when he is stressed. He also acknowledged that he did not personally serve Wife's counsel with the dismissal despite indicating on the form that he had.

On April 6, 2018, Husband verified the petition he filed in India requesting this Court be ordered to stop its proceedings.⁵ Husband acknowledged that he did represent to the High Court in Madras that Wife's permanent address is her parents' home, despite the fact that she has lived . . .

² Admitted exhibits; Plaintiff's Exhibit 11-Defendant's Answer to Complaint and Exhibit 10-Plaintiff's Complaint for Divorce.

³ See Plaintiff's Exhibit 9.

⁴ See Plaintiff's Exhibit 12.

⁵ See Plaintiff's Exhibit 3.

Appendix D

32a

[...]

in attorney fees from the Oakland County escrow account which represents Wife's marital share of the \$62,500 Husband testified he already spent to pay his attorneys.

ADDITIONAL PROVISIONS

Based on Husband's repeated violations of this Court's orders, his dishonesty, and his blatant reluctance to accept that he will be divorced, the Court finds Wife's request reasonable that the funds awarded to Husband shall not be disbursed from the escrow account until all QDROS and necessary transfer documents are executed by Husband as well as attorney fees awarded herein are distributed. In addition, Husband shall vacate the marital home by June 1, 2019 and shall be obligated to ensure the home is in good repair and in the same condition as when Wife left the marital home. The parties shall equally divide the fees incurred for the preparation of any orders necessary to effectuate the foregoing division of assets. The parties shall submit a Judgment of Divorce consistent with this Opinion and Order within 21 days.

IT IS SO ORDERED.

/s/ Hon. Karen D. McDonald

Dated: April 12, 2019

**ORDER OF THE CIRCUIT COURT FOR
THE COUNTY OF OAKLAND DENYING
DEFENDANT'S REVISED MOTION TO
DISMISS FOR LACK OF SUBJECT MATTER
JURISDICTION (MARCH 13, 2019; REGISTER
OF ACTION DATED MARCH 14, 2019)**

STATE OF MICHIGAN IN THE CIRCUIT COURT
FOR THE COUNTY OF OAKLAND

THAMILSELVAN, VIJAYALAKSHMI.,

Plaintiff,

v.

THAMILSELVAN, SIVAGNANAM.,

Defendant.

Case No: 2018-860600-DM

Before: Hon. Karen D. MCDONALD, Judge.

ORDER REGARDING MOTION

Motion Title: Defendant's Motion to Dismiss for
Lack of Subject Matter Jurisdiction

The above named motion is:

☒ denied.

In addition: Pursuant to MCR 2.119(E)(3), the
Court dispenses with oral argument.

Appendix E

34a

Defendant has filed motions asking for the same relief this Court has repeatedly denied on the following dates: March 6, 2019, March 4, 2019, February 27, 2019, February 18, 2019, and September 5, 2019. Hence, this motion is again DENIED.

IT IS SO ORDERED.

/s/ Karen D. McDonald

Circuit Court Judge

Dated: 03/13/2019

**ORDER OF THE CIRCUIT COURT FOR
THE COUNTY OF OAKLAND - DENYING
DEFENDANT'S MOTION TO DISMISS FOR
LACK OF SUBJECT MATTER JURISDICTION
(MARCH 4, 2019; REGISTER OF ACTION
DATED MARCH 5, 2019)**

STATE OF MICHIGAN IN THE CIRCUIT COURT
FOR THE COUNTY OF OAKLAND

THAMILSELVAN, VIJAYALAKSHMI.,

Plaintiff,

v.

THAMILSELVAN, SIVAGNANAM.,

Defendant.

Case No: 2018-860600-DM

Before: Hon. Karen D. MCDONALD, Judge.

ORDER REGARDING MOTION

Motion Title: Defendant's Motion to Dismiss for
Lack of Subject Matter Jurisdiction

The above named motion is:

☒ denied.

In addition: Pursuant to MCR 2.119(E)(3), the
Court dispenses with oral argument.

Appendix F

36a

Defendant filed an "Amendment" on March 4, 2019 to his Motion to Dismiss for Lack of Subject Matter Jurisdiction that was filed February 20, 2019. The Court finds that both these motions are simply additional attempts to dismiss the case, despite these matters having been thoroughly ruled upon by this Court in its November 29, 2019 Opinion and Order denying Defendant's Motion to Dismiss. These motions are essentially Motions for Reconsiderations.

Pursuant to MCR 2.119(F)(1), Defendant had 21 days from November 29, 2018 to file his motion and his February 20 and March 4, 2019 Motions well exceed the allowed time frame. Hence, his motions were improperly filed and shall be DISMISSED.

The Court directs Defendant to review MCR 2.114(D)(3) and (F) before filing pleadings with this Court.

IT IS SO ORDERED.

/s/ Karen D. McDonald

Circuit Court Judge

Dated: 03/04/2019

**OPINION AND ORDER OF THE CIRCUIT
COURT FOR THE COUNTY OF OAKLAND-
DENYING DEFENDANT'S MOTION FOR
SUMMARY DISPOSITION TO ENFORCE
INDIAN ANTISUIT INJUNCTION ON THE
GROUNDS OF COMITY (NOVEMBER 29, 2018;
REGISTER OF ACTION DATED
DECEMBER 4, 2018)**

STATE OF MICHIGAN
IN THE CIRCUIT COURT FOR THE
COUNTY OF OAKLAND, FAMILY DIVISION

VIJAYALAKSHMI THAMILSELVAN,

Plaintiff,

v.

SIVAGNANAM THAMILSELVAN,

Defendant.

Case No: 2018-860600-DM

Before: Hon. Karen D. MCDONALD, Judge.

Background

This matter is before the Court on Defendant-Husband's ("Husband") Motion for Summary Disposition ("Motion") pursuant to MCR 2.116(C)(10). Given the parties' Indian citizenships and their solemnization of marriage in Madras, India, the Motion asserts

Appendix G

38a

that the parties are bound-by the Hindu Marriage Act of 1955 ("the Act"). Moreover, the Motion provides that the Act establishes that the Family Court at Chennai, Madras, India ("Indian Court") possesses jurisdiction over the parties and that the Act obligates the parties to attempt to reconcile their matrimonial dispute. Husband notes that he obtained an anti-suit injunction ("Injunction") in the Indian Court, prohibiting Plaintiff-Wife ("Wife") from proceeding with this litigation, and requests that this Court dismisses the matter entirely by applying the doctrine of comity.¹

The Motion

Despite having lived and worked in the United States for more than twenty years, Husband contends that the parties "have steadfastly maintained their Indian citizenship[s] as well as strong familial, cultural[,] and financial ties" because they intend to return to India upon their retirements. Not only did Wife renew her Indian passport in 2017, but Husband also notes that neither party has ever registered to vote in the United States nor has Wife obtained a Michigan driver's license or a State of Michigan Identification Card. Husband states that the parties' ties to their country of origin run deep, as Husband has maintained his personal residence in India, the parties purchased additional properties in India, and the parties have a bank account that is located there. Finally, Husband notes that both parties' extended families reside in India and that they have returned to India frequently over the course of the marriage.

¹ The Indian Court issued the Injunction on or about April 16, 2018.

Appendix G

39a

Given the foregoing, Husband asserts that the parties are bound by the Act and argues that this Court should dismiss Wife's Complaint for Divorce ("Complaint").² Husband notes that Wife was afforded due process in the Indian proceedings and that the case law proffered by him supports his position that is it appropriate and necessary for this Court to uphold the Injunction.

Wife's Response

In her Response to the Motion, Wife articulates that she is not an observant or practicing Hindu and that she does not possess a valid Michigan driver's license or a State of Michigan Identification Card because Husband never allowed her to obtain them. Wife states that Husband exerted complete control over her during the parties' marriage, refusing to allow her to pursue a large number of her desires. Wife responds that only Husband owns property in India, the parties only traveled to India five times during their twenty-year marriage, and that Husband is the only account holder on the aforementioned India-based bank account. Finally, Wife asserts that the parties own several parcels of property in the United States and that the parties' daughter was born and raised here.

Proposing that she does not have any intention of returning to India on a permanent basis and that the previously mentioned facts bolster her credibility, Wife argues that this Court is the proper jurisdiction in which to resolve the parties pending legal matters. Moreover, Wife contends that Husband is forum

² Wife filed the Complaint on or about February 12, 2018.

Appendix G

40a

shopping because Indian laws are more favorable to his reconciliation position. In particular, Wife states that Husband is displeased with Michigan's no-fault divorce laws and contends that neither the Act nor the Injunction has any bearing on this Court's proceeding given the parties' inarguably longstanding residence in Oakland County, Michigan. Finally, Wife contends that the case law cited by her establishes that the Court is by no means compelled to recognize the Injunction such that the Court should deny the Motion in its totality.

Rules of Law

A. MCR 2.116(C)(10)

A motion under MCR 2.116(C)(10) tests the factual sufficiency of the complaint. *Maiden v. Rozwood*, 461 Mich 109, 120; 597 N.W.2d 817 (1999). In evaluating a motion for summary disposition brought under this subsection, a trial court considers affidavits, pleadings, depositions, admissions, and other evidence submitted by the parties in the light most favorable to the party opposing the motion. MCR 2.116(G)(5). Where the proffered evidence fails to establish a genuine issue regarding any material fact, the moving party is entitled to judgment as a matter of law. MCR 2A 16(C)(10), (G)(4). *Quinto v. Cross & Peters Co*, 451 Mich 358; 547 N.W.2d 314 (1996).

B. Jurisdictional Requirements

On the date of filing a complaint for divorce, one of the parties must have resided in Michigan for at least 180 days and resided in the county of filing for at

Appendix G

41a

least 10 days. MCL 552.9(1); *Stamadianos v. Stamadianos*, 425 Mich 1; 385 N.W.2d 604 (1986). Residence means the place of a permanent home where a party intends to remain. *Banfield v. Banfield*, 318 Mich 38; 27 N.W.2d 336 (1947). Notably, the Court of Appeals has interpreted “intent to remain” as something less than a commitment to stay permanently or indefinitely. *Kar v. Nanda*, 291 Mich App 284; 805 N.W.2d 609 (2011). Moreover, presence and/or domicile in the state at the time when process is served satisfy the requirements of Michigan’s general personal jurisdiction statute. MCL 600.701.

C. The Doctrine of Comity

Unlike the judgments of sister states, foreign country judgments are not subject to the command of the Full Faith and Credit clause of the United States Constitution, Art IV, Sec 1. *Electrolines, Inc v. Prudential Assurance Co*, 260 Mich App 144, 152; 677 N.W.2d 874 (2003). Nevertheless, the principle of comity is “the recognition which one nation allows within its territory to the legislative, executive, or judicial acts of another nation, having due regard both to international duty and convenience and to the rights of its own citizens or of other persons who are under the protection of its laws.” *Dart v. Dart*, 460 Mich 573, 580; 597 N.W.2d 82 (1999). Consequently, with respect to comity, the United States Supreme Court has stated the following:

Where there has been opportunity for a full and fair trial abroad before a court of competent jurisdiction, conducting the trial upon regular proceedings, after due citation or voluntary appearance of the defendant, and

Appendix G

42a

under a system of jurisprudence likely to secure an impartial administration of justice between the citizens of its own country and those of other countries, and there is nothing to show either prejudice in the court or in the system of laws under which it was sitting, or fraud in procuring the judgment, or any other special reason why the comity of this nation should not allow it full effect, the merits of the case should not, in an action brought in this country upon the judgment, be tried afresh, as on a new trial or an appeal, upon the mere assertion of the party that the judgment was erroneous in law or in fact.

Id. at 581.

Comity “is neither a matter of absolute obligation, on the one hand, nor of mere courtesy or good will, upon the other.” *Hilton v. Guyot*, 159 US 113, 164-164; 16 S. Ct 139; 40 L.Ed 95 (1895). As such, “it has frequently been stated that ‘the rules of comity *do not require*’ recognition of foreign anti-suit injunctions.” *Hare v. Starr Commonwealth Corp*, 291 Mich App 206, 221 (2011). Finally, it is well settled that “[t]he rule of comity is not allowed to operate when it will contravene the rights of a citizen of the State where the action is brought” *Keehn v. Rogers*, 311 Mich 416, 425; 18 N.W.2d 877 (1945). Nor will our courts recognize a sister-state judgment under the rules of comity when doing so would contravene this state’s policies or interests. *Kircher v. Kircher*, 288 Mich 669, 671; 286 N.W. 120 (1939).

The Court's Findings

Upon a detailed review of the record, the Court finds that the Motion misses the mark for several reasons. First and foremost, the Court finds that Wife sufficiently pled the pertinent jurisdictional requirements necessary to obtain a divorce from Husband in Michigan. That is, Wife articulated that both parties have resided in the State of Michigan for more than 180 days as well as Oakland County for at least 10 days as of the date of the filing of the Complaint such that this matrimonial dispute is properly before this Court. Despite Husband's contentions that Wife failed to adequately plead the parties' residency requirements because the parties have always intended to return to India, the Court finds that the evidence proffered by Wife contradicts Husband's claims. As Wife presented a plethora of evidence substantiating her assertion that both parties are domiciled in the State of Michigan and the County of Oakland, the Motion's jurisdictional argument fails at this time.

Not only does this Court properly have jurisdiction over the case and parties, but the Court finds that it would be neither fair nor equitable under the circumstances to apply the doctrine of comity to the case at hand. Notably, the case law cited above inarguably establishes that this Court possesses discretion to overlook the Injunction and that both the Injunction and the Act contravenes Wife's legal rights to obtain a divorce from Husband in the State of Michigan.³ As

³ See *Draggoo v. Draggoo*, 223 Mich App 415, 424 (1997) ("[A] divorce will be granted upon the request of only one of the original marrying parties, i.e., even over the objection of one of the original marrying parties.")

Appendix G

44a

Wife has no intention of reconciling with Husband and the parties have knowingly availed themselves of the laws of this jurisdiction for over twenty years, Husband should not be afforded an opportunity to skirt such legal structures now. The Court notes that Husband obtained the Injunction after Wife filed the Complaint and that it appears that Husband is merely endeavoring to forum shop because, unlike Wife, he wants to reconcile.

As Husband failed to satisfy the requirements set forth in MCR 2.116(C)(10), the Motion is DENIED.

IT IS SO ORDERED.

/s/ Karen D. McDonald

Dated: November 29, 2018

**TRANSCRIPT OF NON JURY TRIAL FROM
THE CIRCUIT COURT FOR THE COUNTY
OF OAKLAND-RELEVANT EXCERPTS
(FEBRUARY 11, 2019; REGISTER OF ACTION
DATED FEBRUARY 21, 2019; MCOA
DOCKET # 349037, EVENT #5)**

STATE OF MICHIGAN
6TH JUDICIAL CIRCUIT COURT
FOR THE COUNTY OF OAKLAND

VIJAYALAKSHMI THAMILSELVAN,

Plaintiff,

v.

SIVAGNANAM THAMILSELVAN,

Defendant.

File No: 2018-860600-DM

Before: Hon. Karen D. MCDONALD,
Circuit Court Judge.

[February 11, 2019 Transcript, p.13]

A. Biochemistry.

Q. You file income taxes in the United States, is
that correct?

A. Yeah.

Appendix H

46a

Q. You file income taxes with the State of Michigan, is that correct?

A. Yes.

Q. You claim tax exemptions when you filed your taxes here, didn't you, for your daughter or your property taxes, did you take those deductions on your income taxes?

A. Yeah.

Q. Who prepares your taxes, do you do them or somebody else?

A. I do it myself.

Q. You do it yourself, it's like Turbo Tax or some other computer program.

A. Turbo Tax, yeah.

Q. Where is your new job located? You said Henry Ford, are you working in Detroit or West Bloomfield, or?

A. Detroit.

Q. Detroit? Is it fair to say, Siva, that you don't want to be divorced?

A. Yes, I don't want to be divorced.

Q. After your wife, Viji (ph), filed for divorce here in the United States you filed a petition in India, didn't you?

A. Not after she filed but as soon as I dismissed the first one then I filed it and—but by the time—during the process going on and my wife filed it, so.

Q. You filed a petition—

Appendix H

47a

A. Not—not—

Q. —and to what—wait for me to finish my question and then answer me, okay?

A. Yes.

Q. You filed a petition in India, right?

A. Right, Right.

Q. Okay, and you filed a petition to restore or the restitution of your conjugal rights in India, didn't you?

A. Yes.

Q. Okay, and you filed that in March of 2018, didn't you?

A. Actually, I can't—can I make it clear?

Q. Nope, no, I don't want you to make it clear, I want you to answer my question—

THE COURT: No, I'll let you—I'll let you follow up when she's done.

THE WITNESS: (Inaudible).

BY MS. MIDDLEDITCH:

Q. Did You file your petition for the restitution of conjugal rights—

A. It was March 3rd, yes.

Q. —in March of 2018?

A. Yeah.

MS. MIDDLEDITCH: May I approach the witness, your Honor?

THE COURT: Yes. He filed it March 30th?

Appendix H

48a

MS. MIDDLEDITCH: 2018.

THE WITNESS: March 3.

THE COURT: 3 or 30th?

THE WITNESS: 3. March 3.

THE COURT: Okay.

MS. MIDDLEDITCH: I'm going to direct your attention, your Honor, to my Exhibit 2 in my exhibit book. I apologize they're not tabbed. They got sent up here without the tabs, so it's in section B and it's a lengthy document. But it's Exhibit 2 in section B.

The record should reflect I'm handing the same exhibit book that the court has to the witness.

BY MS. MIDDLEDITCH:

Q. Siva, Will you please take a look at what has been marked as Plaintiff's Exhibit 2? is this a copy of the petition that you filed in the—

THE COURT: Just to make a good record, it's Plaintiff's Exhibit 2 in a previous—is this—are you letters or numbers?

MS. MIDDLEDITCH: I'm numbers, I'm plaintiff.

THE COURT: Okay, so why are these—this is just to make it easier, A, B, C, D. It's not—

MS. MIDDLEDITCH: Yeah, so in section B is all my exhibits.

THE COURT: Got it, so this is your current Exhibit 1?

MS. MIDDLEDITCH: That's correct. And so Exhibit 2 is the—and I'm sorry there's not numbered petitions, but Exhibit 2 is what we're—

THE COURT: Got it.

Appendix H

49a

MS. MIDDLEDITCH: —I have the witness looking at now.

THE COURT: All right, got it.

BY MS. MIDDLEDITCH:

Q. And Siva, in looking at Plaintiff's proposed Exhibit 2, is that the petition that you filed for the reinstitution or the restitution of conjugal rights in India?

A. Yeah.

Q. Okay, and you filed that in the Chennai Family Court, is that correct?

A. Yeah.

Q. And is Chennai a state in the country of India?

A. Yeah.

Q. Okay, and so that's where you filed it—

A. (Multiple speakers).

Q. I'm—

A. It's city.

Q. It's a city, and that's where you filed your petition to reinstate conjugal rights, and you did that after the plaintiff had already filed for divorce here, correct? Yes or no?

A. That's what I need to clear.

Q. No, either yes or no, you either did or you didn't.

THE COURT: This is technically cross-examination, you have to answer her questions and then I'll give you a chance to explain.

THE WITNESS: Yes.

Appendix H

50a

BY MS. MIDDLEITCH:

Q. Okay. Now, is that a fair and accurate depiction of the petition that you filed?

A. Yes.

Q. Can you take a look at it?

A. Yes.

MS. MIDDLEITCH: Okay, I would move for its admission, your Honor.

(At 10:48:42 a.m., Plaintiff's Exhibit 2 is offered)

THE COURT: All right, you don't have any objection to me looking at that petition, right?

THE WITNESS: No.

THE COURT: Okay, it's admitted.

(At this time, 10:48:49 a.m.,
Plaintiff's Exhibit 2 is admitted)

BY MS. MIDDLEITCH:

Q. I'd like to draw your attention in that petition, keep that page open, and if you could, you signed that petition, Siva?

A. Yeah.

Q. And you asked the court for relief in Chennai, right?

A. Yeah.

Q. You asked the court in India to pass an order or decree directing that my client reconstitute the conjugal rights of you and to live with you, is that right?

A. Yeah.

Appendix H

51a

Q. Okay. What are conjugal rights, Siva?

A. To come and stay with me at the house as a family.

Q. Does that mean that—are you familiar with what the common definition here in this country is of conjugal rights?

A. No.

Q. Do you have any reason to dispute that here it means the sexual rights or privileges conferred upon spouses in marriage, do you have any reason to dispute that?

A. (Undecipherable)—that point, yeah.

Q. Were you ordering the Indian court to have my client come back and live with you and sleep with you or have sex with you?

A. As a family, yes.

THE COURT: So you—

THE WITNESS: As a family member, as a wife.

BY MS. MIDDLEDITCH:

Q. You understand that here in the United States if you try to force someone to have sex with you, even if you're married to them, that's rape?

A. But our current Hindu marriage culture and it's as a family.

Q. So my question to you is, do you understand that here in this country, even if you're married to someone, if you force them to have sex with you that's a crime, do you understand that?

Appendix H

52a

- A. That's what I read, that it's in America marriage is a contract marriage, so that may be right.
- Q. And yet you ordered—
- A. But—(multiple speakers)—it's not a contract marriage, more than that. I couldn't put it in my English word.
- Q. But yet you filed a petition and you want the Indian court to order my client to sleep with you and live with you and have sex with you?
- A. Yeah.
- Q. Okay.
- A. As a family.
- Q. In fact, you came before this court and asked Judge McDonald to exercise her discretion and honor the Indian court's orders, didn't you?
- A. Yes.
- Q. Now, in your petition to restore conjugal rights I might . . .

[. . .]

**TRANSCRIPT OF MOTION FOR STAY OR
PROCEEDINGS AND MOTION FOR SHOW
CAUSE FROM THE CIRCUIT COURT FOR
THE COUNTY OF OAKLAND-RELEVANT
EXCERPTS (JANUARY 9, 2019; MCOA
DOCKET #349037, EVENT # 13)**

STATE OF MICHIGAN
6TH JUDICIAL CIRCUIT COURT
FOR THE COUNTY OF OAKLAND

VIJAYALAKSHMI THAMILSELVAN,

Plaintiff,

v.

SIVAGNANAM THAMILSELVAN,

Defendant.

File No.: 2018-860600-DM

Before: Hon. Karen D. MCDONALD,
Circuit Court Judge.

[January 9, 2019 Transcript, p.3]

Pontiac, Michigan

Wednesday, January 9, 2019-9:27:22 a.m.

THE CLERK: Your Honor, now calling docket number
13, Thamilselvan versus Thamilselvan, case 2018-
860600-DM.

Appendix I

54a

MS. MIDDLEDITCH: Good morning, your Honor, Keri Middleditch on behalf of the plaintiff, Vijay (ph) Thamilselvan.

MS. SPILMAN: Good morning, your Honor, Amy Spilman on behalf of the defendant. We have two motions up, your Honor.

THE COURT: Okay.

MS. SPILMAN: I guess I'll start. We have filed a motion for a stay pending appeal. This court issued an opinion and order on November 29th, 2018 denying defendant's motion for summary disposition. In December on the 21st defendant filed an application for leave to appeal. We are asking the court to stay the matter pending—pending the Court of Appeals decisions whether they'll grant the application. And we think that this—the issues that are raised in the motion for summary disposition are ripe for consideration by the Court of Appeals.

It is related to the court's decision to not exercise comity and recognize the Indian court's anti-suit injunction. So, this is not an issue that's going to be revisited on—at trial. It is an independent issue that affects the entire disposition of this case.

If the case proceeds to judgment while the Court of Appeals matter is pending it's likely to be considered moot of a Judgment of Divorce is entered. I don't know that the Court of Appeals is inclined to undo a Judgment of Divorce once it's entered. And entering a Judgment under Michigan law has significant consequences for

Appendix I

55a

both of these parties who, as the court remembers, are Indian citizens and are subject to those laws.

A Michigan divorce will not be recognized in India and if either party remarries that is bigamy under Indian law. It is a crime, it is punishable by 7 to 10 years in jail and it's not speculation, that is clear-cut Indian law under the Hindu Marriage Act and the Indian penal code—

THE COURT: Who's getting remarried?

MS. SPILMAN: If they wanted to remarry. And my client—

THE COURT: Is there any reason to believe either one of them are about to get remarried?

MS. SPILMAN: If—if there was a Michigan divorce, under US law, obviously, they could remarry, but they would not be legally divorced under Indian law, and if my client, who would wish to be remarried under Indian law, would have a problem with that. I don't know if that's important to plaintiff, but it is important to my client, but she would also be subject to that if it happens to become important to her.

So, it is not a delay tactic. There are significant consequences and legal issues to—

THE COURT: No, I guess my only point is that, you know, issuing a stay means you want immediate relief from the Court of Appeals and you want this proceeding to stop, and unless somebody's planning on remarrying immediately, the chances—you know, I guess the chances—even if—let's say that the Judgment is entered, which isn't going to be tomorrow, even if I don't grant

Appendix I

56a

the stay, I'm not sure if someone would remarry so quickly before the Court of Appeals would have a chance to decide.

MS. SPILMAN: Correct, your Honor, but the concern is that the Court of Appeals wouldn't even hear the appeal at that point because it's moot, the divorce has been granted. I don't know if they would—there is concern that—whether the Court of Appeals would set aside the Judgment if they felt that summary disposition should've been granted. And if someone's divorced—

THE COURT: I think they—they're just as likely to do that if they think that the lower court erred.

MS. SPILMAN: Well, let's—I mean, if we want to take it even further, if the Judgment of Divorce is entered and somebody does remarry under Michigan law, then they—I don't know that the Court of Appeals, under those circumstances, would set it aside because then we have—I have a problem with two different marriages. So, these are all speculative things but they are things that could occur.

THE COURT: I mean, the court rule is—

MS. SPILMAN: And we're asking—

THE COURT:—is as justice requires, but also it's something that can't be undone, so.

MS. SPILMAN: There is a motion pending in the Court of Appeals for immediate consideration. I—

THE COURT: Right, and I get that, but in order—to grant a stay, you know, I typically do that based

Appendix I

57a

on the case law and the court ruled when something can't really be undone.

MS. SPILMAN: However, I also point out that we are approaching our one year time limit on this case. It is scheduled for trial on January 29th. We know that is a hard and fast date, so we don't really have a lot of hope that the Court of Appeals would actually—you know, we don't know if they'll hear—

THE COURT: Well, Unless you can complete your trial in one day that's not going to occur the end of January, it will occur over several weeks and then there's time to write the opinion.

So, okay, your response to that?

MS. MIDDLEDITCH: First off, I just want to point out a couple things, your Honor. Number one, this is an appeal that's an application right, it's not an appeal of right. I would argue that it's actually a frivolous application. The court—the Court of Appeals could grant a stay if it deemed inappropriate, and quite frankly, I'm relatively confident, given what I've seen so far of this case, that if this court does deny this day that will be the next thing that happens.

I also think it's really interesting to point out that in this case, after he filed his application I was subsequently served with a motion for immediate consideration by the Court of Appeals, and that was not accompanied by a motion for peremptory reversal. Which I just have to say, I don't really do appellate work but I've had lots of cases of mine appealed for one reason or another, or have sought an appeal, and I have never once seen

Appendix I

58a

where there has been a motion for immediate consideration not accompanied by a motion for peremptory reversal on any of my prior cases, asking the Court of Appeals to take immediate action or corrective action.

There's no reason for this court to grant this day. This court rightfully denied the summary disposition motion.

I would actually argue that the appeal is frivolous and it's—it's just another thing—and I actually asked for in my response for \$7,500.00 from the marital estate for my client to retain appellate counsel to respond to all of these motions.

But by the way, I told you I don't generally do appeals. Sometimes I'll file as co-counsel, but I I'm not the lead counsel on an appeal.

The summary disposition motion had 32 exhibits. My response had I think 18. There were depositions in this. This is not a case where there's not a significant amount of pleadings or discovery to review for the appellate counsel and then jump in on a response for an application, a response to the motion for immediate consideration, and I suspect what will be coming is a motion for peremptory reversal. And then if the application is accepted there's going to be further response. So, I don't think \$7,500.00 is excessive.

THE COURT: Have you—you've requested that of opposing counsel?

MS. MIDDLEDITCH: I did it just in my response to the motion and the response was—

Appendix I

59a

THE COURT: You don't have an objection to that, do you? You certainly don't have an objection to your client being able to pay for an appeal, but—

MS. SPILMAN: I don't.

THE COURT:—wife not being able to take the same amount of money?

MS. SPILMAN: My client did not pay the attorney. A friend paid on his behalf and—

THE COURT: Well, then he's going to have to get that friend to pay on wife's behalf because I'm not going to allow—

MS. SPILMAN: I don't think the court can order a third-party to pay—

THE COURT: Okay, well then it comes from the marital estate.

MS. SPILMAN:—attorneys fees. Okay, but my client—the charge was 2,500—

THE COURT: And who's the friend?

MS. SPILMAN:—not 7,500.

THE COURT: stand up and raise your right hand please.

MS. SPILMAN: Stand up.

THE COURT: Do you solemnly swear or affirm that the testimony you are about to provide in this matter before this Court will be the whole truth and nothing but the truth?

[...]

**TRANSCRIPT OF MOTION FOR SUMMARY
DISPOSITION TO ENFORCE INDIAN
ANTISUIT INJUNCTION ON THE GROUNDS
OF COMITY, FROM THE CIRCUIT COURT OF
THE OAKLAND COUNTY- RELEVANT
EXCERPTS-(OCTOBER 24, 2018; OCCC
REGISTER OF ACTION DATED 1-9-2029;
MCOA DOCKET #349037, EVENT #19)**

STATE OF MICHIGAN
6TH JUDICIAL CIRCUIT COURT
FOR THE COUNTY OF OAKLAND

VIJAYALAKSHMI THAMILSELVAN,

Plaintiff,

v.

SIVAGNANAM THAMILSELVAN,

Defendant.

File No: 2018-860600-DM

Before: Hon. Karen D. MCDONALD,
Circuit Court Judge.

[October 24, 2018 Transcript, p.3]

Pontiac, Michigan

Wednesday, October 24, 2018-9:03:50 a.m.

Appendix J

61a

THE CLERK: Your Honor, now calling docket number 39, Thamilselvan versus Thamilselvan, case 2018-860600-DM.

MS. MIDDLEDITCH: Good morning, your Honor, Keri Middleditch on behalf of the plaintiff, who is present to my right.

MS. SPILMAN: Good morning, your Honor, Amy Spilman on behalf of the defendant.

THE COURT: All right, I'm just going to hear some brief argument and then issue a written opinion.

MS. SPILMAN: Sure.

MS. MIDDLEDITCH: You want us to do the summary disposition motion first?

THE COURT: Yes.

MS. MIDDLEDITCH: Thank you.

MS. SPILMAN: Your Honor, this is our motion for summary disposition. Briefly, I know the court has read the briefs and we've briefed it to death, I guess. The parties are the citizens of—are citizens of India and of the Hindu faith. They've maintained their legal cultural, familial and financial ties to their country of origin, despite having lived in the United States for a number of years, where they essentially work in accumulated assets but not otherwise participated in US civic life or changed their green card status.

Each party is the only member of their family to live in the United States. Their entire families live in India where they were married and where they visit and have accumulated property.

THE COURT: But they've lived here how long?

Appendix J

62a

MS. SPILMAN: They have lived here for 20 years as green card residents.

THE COURT: Okay.

MS. SPILMAN: And it's important, your Honor, because that—

THE COURT: Do you have any case that would support your position?

MS. SPILMAN: The issue here is comity. It's not jurisdiction, it's whether the court should order that the Indian order that was issued should be granted comity. So, I'm not contesting the jurisdiction of the court and comity isn't asking the court to—the order that I'm asking the court to enforce isn't directed to the court, it's directed to the parties, and the parties are subject—remain subject to Indian law because they are Indian citizens. It doesn't matter whether they live in India or abroad.

THE COURT: Right, but do you have any case . . .

[. . .]

Appendix K
63a

**INDIAN ANTI-SUIT INJUNCTION ORDER
(JULY 12, 2018)**

IN THE HIGH COURT OF
JUDICATURE AT MADRAS
(ORDINARY ORIGINAL CIVIL JURISDICTION)

MR. THAMILSELVAN SIVAGNANAM
S/o Sivagnanam
Old No. 126, New No. 20
New Market Street, Choolaimedu
Chennai 600 094.,

Applicant/Plaintiff,

v.

VIJAYALAKSHMI THAMILSELVAN
D/o Thiruvengadam
Having Permanent Address at:
No. 7 Anna Street, TSR Nagar,
Thiruvottiyur, Tamil Nadu 600 019.,

Temporarily Residing at
C/o. Hiren Bhatt
No. 21285, Goldsmith Street,
Farmington Hills, Michigan 48202.,

Respondent/Defendant.

O.A. No: 369 of 2018 in C.S. No. 244 of 2018
Before: The Hon. N. SATHISHKUMAR, Justice.

Appendix K

64a

Original Application praying that this Hon'ble Court be pleased to grant an ad interim Anti-Suit injunction in favour of the plaintiff and against the defendant restraining the defendant, her agent, attorney and/or anyone acting through/under her from instituting and/or continuing any legal proceeding in case No. 18-860600-DM in relation to the complaint for divorce on the file of circuit court of the county of Oakland, Family division in the state of Michigan and/or any other legal proceeding before any court/forum whatsoever pending disposal of the above suit.

This Original Application Coming on this day before this court for hearing in the presence of Mr. B. Vijay, Advocate for the applicant herein and the respondent herein not appearing in person or by advocate and upon reading the order herein dated 21.06.2018, it is ordered as follows:

That the order of interim injunction granted in pursuance of the order dated 16.04.2018 made in O.A. No. 369 of 2018 restraining the respondent therein, her agent, attorney and/or anyone acting through/under her from instituting and/or continuing any legal proceedings in case No. 18-860600-DM in relation to the complaint for divorce on the file of circuit court of the county of Oakland, Family Division in the state of Michigan and/or any other legal proceeding before any court/forum whatsoever be and are hereby made absolute.

WITNESS THE HON'BLE MS. INDIRA BANERJEE,
CHIEF JUSTICE, HIGH COURT AT MADRAS
AFORESAID, THIS THE 12TH DAY OF JULY 2018.

Appendix K
65a

Sd./-
Assistant Registrar (O.S.II)

//Certified to be true copy//

Dated at Madras this the 17th day of July 2018.

/s/ {Illegible}
Court Officer (O.S.)

**INDIAN ANTI-SUIT INJUNCTION ORDER
(JUNE 21, 2018)**

IN THE HIGH COURT OF
JUDICATURE AT MADRAS
(ORDINARY ORIGINAL CIVIL JURISDICTION)

MR. THAMILSELVAN SIVAGNANAM
S/o Sivagnanam
Old No. 126, New No. 20
New Market Street, Choolaimedu
Chennai 600 094.,

Applicant / Plaintiff,

v.

VIJAYALAKSHMI THAMILSELVAN
D/o Thiruvengadam
Having Permanent Address at:
No. 7 Anna Street, TSR Nagar,
Thiruvottiyur, Tamil Nadu 600 019.,

Temporarily Residing at
C/o. Hiren Bhatt
No. 21285, Goldsmith Street,
Farmington Hills, Michigan 48202.,

Respondent / Defendant.

O.A. No: 369 of 2018 in C.S. No. 244 of 2018
Before: The Hon. N. SATHISHKUMAR, Justice.

Appendix L

67a

Original Application praying that this Hon'ble Court be pleased to grant an ad interim Anti-suit injunction in favour of the plaintiff and against the defendant restraining the defendant, her agent, attorney and/or anyone acting through/under her from instituting and/or continuing any legal proceedings in Case No. 18-860600-DM in relation to the complaint for divorce on the file of circuit court of the County of Oakland, Family Division in the State of Michigan and/or any other legal proceeding before any court/forum whatsoever pending disposal of the above suit.

This original Application coming on this day before this Court for Mr. B. Vijay, Advocate for the applicant herein and Mr. T. Gowthaman, advocate for the respondent herein and upon reading the order herein 27.04.2018, it is ordered as follows:

That the order of interim injunction granted in pursuance of the order dated 16.04.2018 made in O.A. No.369 of 2018 restraining the defendant, her agent attorney and/or anyone acting through/under her from instituting and/or continuing any legal proceedings in case No.18-860600-DM in relation to the complaint for divorce on the file of circuit Court of the County of Oakland, Family Division in the State of Michigan and/or any other legal proceeding before any court/forum whatsoever be and is hereby extended till 12.07.2018.

2. That the O.A. Nos. 369 of 2018 in C.S. No. 244 of 2018 be posted on 12.07.2018 for filing counter.

WITNESS THE HON'BLE MS. INDIRA BANERJEE,
CHIEF JUSTICE, HIGH COURT AT MADRAS
AFORESAID, THIS THE 21ST DAY OF JUNE 2018.

Appendix L
68a

Sd./-
Assistant Registrar (O.S.II)

//Certified to be true copy//

Dated at Madras this the 22nd day of June 2018.

/s/ N.S.G. Krishna
Court Officer (O.S.)

Appendix M
69a

**INDIAN ANTI-SUIT INJUNCTION ORDER
(JUNE 21, 2018)**

IN THE HIGH COURT OF
JUDICATURE AT MADRAS
(ORDINARY ORIGINAL CIVIL JURISDICTION)

MR. THAMILSELVAN SIVAGNANAM
S/o Sivagnanam
Old No. 126, New No. 20
New Market Street, Choolaimedu
Chennai 600 094.,

Applicant / Plaintiff,

v.

VIJAYALAKSHMI THAMILSELVAN
D/o Thiruvengadam
Having Permanent Address at:
No. 7 Anna Street, TSR Nagar,
Thiruvottiyur, Tamil Nadu 600 019.,

Temporarily Residing at
C/o. Hiren Bhatt
No. 21285, Goldsmith Street,
Farmington Hills, Michigan 48202.,

Respondent / Defendant.

O.A. No: 369 of 2018 in C.S. No. 244 of 2018
Before: Hon. N. SATHISHKUMAR, Justice.

Appendix M

70a

Original Application praying that this Hon'ble Court be pleased to grant an ad interim Anti-suit injunction in favour of the plaintiff and against the defendant restraining the defendant, her agent, attorney and/or anyone acting through/under her from instituting and/or continuing any legal proceedings in Case No.18-860600-DM in relation to the complaint for divorce on the file of circuit court of the County of Oakland, Family Division in the State of Michigan and/or any other legal proceeding before any court/forum whatsoever pending disposal of the above suit.

This original Application coming on this day before this court for hearing the court made the following order:

The learned counsel for the respondent seeks further time of two weeks to file counter, hence post the matter on 12.07.2018.

The interim order already granted by this court is extended till then.

Sd/.N.S.K. J

21.06.2018

//Certified to be true copy//

Dated at Madras this the 22nd day of June 2018.

/s/ N.S.G. Krishna

Court Officer (O.S.)

Appendix N

71a

**INDIAN ANTI-SUIT INJUNCTION ORDER
(APRIL 27, 2018)**

IN THE HIGH COURT OF
JUDICATURE AT MADRAS
(ORDINARY ORIGINAL CIVIL JURISDICTION)

MR. THAMILSELVAN SIVAGNANAM

S/o Sivagnanam

Old No. 126, New No. 20

New Market Street, Choolaimedu

Chennai 600 094.,

Applicant / Plaintiff,

v.

VIJAYALAKSHMI THAMILSELVAN

D/o Thiruvengadam

Having Permanent Address at:

No. 7 Anna Street, TSR Nagar,

Thiruvottiyur, Tamil Nadu 600 019.,

Temporarily Residing at

C/o. Hiren Bhatt

No. 21285, Goldsmith Street,

Farmington Hills, Michigan 48202.,

Respondent / Defendant.

O.A. No: 369 of 2018 in C.S. No. 244 of 2018

Before: Hon. N. SATHISHKUMAR, Justice.

Appendix N

72a

Original Application praying that this Hon'ble Court be pleased to grant an ad interim Anti-suit injunction in favour of the plaintiff and against the defendant restraining the defendant, her agent, attorney and/or anyone acting through/under her from instituting and/or continuing any legal proceedings in Case No.18-860600-DM in relation to the complaint for divorce on the file of circuit court of the County of Oakland, Family Division in the State of Michigan and/or any other legal proceeding before any court/forum whatsoever pending disposal of the above suit.

This Original Application Coming on this day before this court for hearing in the presence of Mr. R. Shankar Narayanan Senior Counsel for M/s. B. Vijay, Arun Mugumaraj Subramaniam, G. Dinesh Kumar Advocate for the applicant herein and the Mr. T. Gowthaman Advocate for the respondent herein and upon reading the order herein 16.04.2018, it is ordered as follows:

That the order of interim injunction granted in pursuance of the order dated 16.04.2018 made in O.A. No. 369 of 2018 restraining the defendant, her agent, attorney and/or anyone acting through/under her from instituting and/or anyone continuing any legal proceedings in case No. 18-860600-DM in relation to the complaint for divorce on the file of circuit court if the county of Oakland, Family Division in the state if Michigan and/or any other legal proceeding before any court/forum whatsoever be and is hereby extended till 21.06.2018.

2. This the O.A. No.369 of 2018 in C.S. No. 244 of 2018 be posted on 21.06.2018 for filing counter.

Appendix N

73a

WITNESS THE HON'BLE MS. INDIRA BANERJEE,
CHIEF JUSTICE, HIGH COURT AT MADRAS AFORE-
SAID, THIS THE 27TH DAY OF APRIL 2018.

sd/.

Assistant Registrar (O.S. II)

//Certified to be true copy//

Dated at Madras this the 28th day of April 2018.

/s/ N.S.G. Krishna

Court Officer (O.S.)

Appendix O

74a

**INDIAN ANTI-SUIT INJUNCTION ORDER
(APRIL 16, 2018)**

IN THE HIGH COURT OF
JUDICATURE AT MADRAS
(ORDINARY ORIGINAL CIVIL JURISDICTION)

MR. THAMILSELVAN SIVAGNANAM

S/o Sivagnanam

Old No. 126, New No. 20

New Market Street, Choolaimedu

Chennai 600 094.,

Applicant / Plaintiff,

v.

VIJAYALAKSHMI THAMILSELVAN

D/o Thiruvengadam

Having Permanent Address at:

No. 7 Anna Street, TSR Nagar,

Thiruvottiyur, Tamil Nadu 600 019.,

Temporarily Residing at

C/o. Hiren Bhatt

No. 21285, Goldsmith Street,

Farmington Hills, Michigan 48202.,

Respondent / Defendant.

O.A. No: 369 of 2018 in C.S. No. 244 of 2018

Before: Hon. N. SATHISHKUMAR, Justice.

Appendix O

75a

Original Application praying that this Hon'ble Court be pleased to grant an ad interim Anti-Suit injunction in favour of the plaintiff and against the defendant restraining the defendant, her agent, attorney and/or anyone acting through/under her from instituting and/or continuing any legal proceedings in Case No. 18-860600-DM in relation to the complaint for divorce on the file of Circuit Court of the County of Oakland, Family Division in the State of Michigan and/or any other legal proceeding before any court/forum whatsoever pending disposal of the above suit.

This Original Application coming on this day before this court for hearing in the presence of Mr. B. Vijay, Advocate for the applicant herein and upon reading the judges summons and the affidavit of Thamilselvan Sivagnanam filed herein it is ordered as follows:

1. That Vijayalakshmi Thamilselvanm the respondent herein her agent, attorney and/or anyone acting through/under her be and is hereby restrained by an order of interim injunction till 27.04.2018 from instituting and/or continuing any legal proceedings in Case No.18-860600-DM in relation to the complaint for divorce on the file of Circuit Court of the County of Oakland, Family Division in the State of Michigan and/or any other legal proceeding before any court/forum whatsoever.

2. That the notice of these original application returnable by 27.04.2018 be served on the respondent herein and private notice is also permitted.

3. That the applicant/plaintiff herein shall be comply with order 39 Rule 3.

Appendix O

76a

4. That the O.A. No.369 of 2018 in C.S. No. 244 of 2018 be posted on 27.04.2018.

WITNESS THE HONBLE MS. INDIRA BANERJEE,
CHIEF JUSTICE, HIGH COURT AT MADRAS AFORE-
SAID, THIS THE 16th DAY OF APRIL 2018.

Sd./-

Assistant Registrar (O.S.II)

//Certified to be true copy//

Dated at Madras this the 17th day of April 2018.

/s/ N.S.G. Krishna

Court Officer (O.S.)