

IN THE GENERAL DIVISION OF
THE HIGH COURT OF THE REPUBLIC OF SINGAPORE

[2022] SGHC 184

Originating Summons No 1025/2021
(Summons No 4742 of 2021)

Between

- (1) Syed Suhail bin Syed Zin
- (2) Moad Fadzir bin Mustaffa
- (3) Hamzah bin Ibrahim
- (4) Norasharee bin Gous
- (5) Nazeri bin Lajim
- (6) Rosman bin Abdullah
- (7) Roslan bin Bakar
- (8) Masoud Rahimi bin Merzad
- (9) Zamri bin Mohd Tahir
- (10) Fazali bin Mohamed
- (11) Rahmat bin Karimon
- (12) Ramdhan bin Lajis
- (13) Jumaat bin Mohamed Sayed
- (14) Muhammad Faizal bin Mohd
Shariff
- (15) Abdul Rahim bin Shapiee
- (16) Muhammad Salleh bin Hamid
- (17) Mohammad Reduan bin
Mustaffar

... Plaintiffs

And

Attorney-General

... Defendant

JUDGMENT

[Civil Procedure] — [Costs]

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Syed Suhail bin Syed Zin and others

v

Attorney General

[2022] SGHC 184

General Division of the High Court — Originating Summons No 1025 of 2021
(Summons No 4742 of 2021)

Kannan Ramesh J
23 November 2021

12 May 2022

Judgment reserved.

Kannan Ramesh J:

1 This application arose out of HC/OS 1025/2021 (“OS 1025”) which was the plaintiffs’ application for leave to commence contempt of court proceedings against the Minister for Law and Home Affairs, Mr K Shanmugam, SC. The Attorney-General applied to strike out OS 1025 by way of HC/SUM 4742/2021 (“SUM 4742”). I heard and allowed SUM 4742 on 16 November 2021, striking out OS 1025 entirely.

2 At the end of the hearing of SUM 4742, counsel for the Attorney-General intimated that personal costs orders against the plaintiffs’ counsel, Mr Ravi s/o Madasamy (“Mr Ravi”) and Mr Cheng Kim Kuan (“Mr Cheng”), would be sought. I directed that the Attorney-General file submissions on costs of SUM 4742 and OS 1025 generally and on this point specifically by 23 November 2021, and that the plaintiffs, and Mr Ravi and Mr Cheng file reply submissions by 30 November 2021. However, only the Attorney-General filed submissions despite several reminders to Mr Ravi and Mr Cheng. That said, I

take cognisance of two letters sent by Mr Cheng on 5 and 28 January 2022, urging the court not to impose costs on him.

3 The first issues are (a) whether costs ought to be ordered in favour of the Attorney-General, and (b) if so, what ought to be the quantum of costs? The general rule is that costs should follow the event. As the Attorney-General was successful in SUM 4742 resulting in OS 1025 being struck out in its entirety, costs of SUM 4742 and OS 1025 should be awarded to the Attorney-General.

4 As for the quantum of costs, the applicable range set out in Appendix G of the Supreme Court Practice Directions is between \$6,000 and \$20,000. The Attorney-General has asked for costs at the lower end of this range, at \$10,000. This is to account for the filing of various papers, attendance at three pre-trial conferences, and attendance at the hearing of SUM 4742. The Attorney-General points out in particular that Mr Ravi turned up late for a pre-trial conference on 10 November 2021 and this was only after the hearing was stood down no less than three times in an effort to procure his attendance. Whilst he eventually attended, this was almost eight hours after the hearing was originally meant to commence. During this time, counsel for the Attorney-General were forced to wait for Mr Ravi. The Attorney-General submits that the costs of attendance during the period when Mr Ravi was absent should be provided for. Given the above matters, I do not think that the \$10,000 sought by the Attorney-General is unreasonable. To be clear, I do not include disbursements in this figure as Appendix G specifically excludes them.

5 This brings me to the second issue: should Mr Ravi and Mr Cheng personally bear these costs? The test for whether personal costs ought to be ordered against counsel pursuant to O 59 r 8(1) of the Rules of Court (Cap 322, R 5, 2014 Rev Ed) (“ROC”) was set out by the Court of Appeal in *Munshi Rasal v Enlighten Furniture Decoration Co Pte Ltd* [2021] 1 SLR 1277 at [17]. This requires the court to consider three questions: (a) did counsel act improperly,

unreasonably or negligently; (b) did this cause the other party to incur unnecessary costs; and (c) if so, is it just in all the circumstances to order the counsel to compensate the other party for the whole or any part of the costs? In the present case, I am satisfied that all three requirements have been fulfilled. I consider Mr Ravi first.

6 As regards the first question, it is important to begin with the observation that OS 1025 was misconceived from the outset as it did not satisfy the threshold legal requirement of consent from the Attorney-General stated in s 30 of the Administration of Justice (Protection) Act 2016 (No 19 of 2016) (“AJPA”). The plaintiffs did not obtain the consent of the Attorney-General prior to commencing OS 1025. The action was therefore wrongly commenced.

7 Accordingly, if Mr Ravi was unaware of the need for the Attorney-General’s consent, he would have been negligent in commencing OS 1025 without first obtaining it. On the other hand, if he was aware of the need for the Attorney-General’s consent, in commencing OS 1025 without obtaining it, he would have acted improperly.

8 While it was not clear whether Mr Ravi knew of this flaw in OS 1025 at the time of filing, at the very least, he became aware of it at a very early stage in the proceedings. On 11 October 2021, the day that OS 1025 was filed, the Attorney-General sent a letter to court stating that he did not give consent under s 30 of the AJPA. KK Cheng Law LLC, the firm that Mr Ravi practised out of at the material time, was copied on this letter. Mr Ravi did not deny knowledge of this letter. Despite being put on notice at such an early stage in the proceedings on the need for consent, Mr Ravi did not withdraw OS 1025, nor did he attempt to seek the Attorney-General’s consent retrospectively.

9 Further, when the need for the Attorney-General’s consent was squarely put to him by the court during the hearing of SUM 4742, Mr Ravi argued that

the plaintiffs did not require it as s 30 of the AJPA was unconstitutional. However, as stated when I delivered my judgment in SUM 4742, a constitutional challenge had not been mounted against s 30 of the AJPA. Accordingly, OS 1025 had to be addressed on the basis that the provision stood. It therefore ought not to have been commenced or pursued.

10 In short, it was made clear to Mr Ravi that OS 1025 required consent from the Attorney-General. Yet, he ignored this and continued on. Such conduct by an advocate and solicitor can only be described as improper.

11 A further point must be made to underscore the view that Mr Ravi's conduct was improper. Mr Ravi's etiquette as an advocate and solicitor fell below the expected standard. To begin with, throughout his conduct of OS 1025, Mr Ravi showed a disregard for the timelines set by the court. Aside from showing up late for the pre-trial conference on 10 November 2021, Mr Ravi missed the deadline of 9 November 2021 for the filing of submissions in SUM 4742 and failed to file submissions on costs as directed.

12 More strikingly, Mr Ravi's conduct at the hearing of SUM 4742 on 16 November 2021 was not proper. During the hearing, instead of dealing with the merits of SUM 4742, Mr Ravi spoke of irrelevant matters that served no purpose other than to protract the hearing. Much of what was said were *ad hominem* attacks on persons who were not even part of the proceedings, such attacks continuing despite reminders by the court to focus on the merits. Such conduct is improper.

13 As regards the second question, there is no doubt that Mr Ravi's conduct caused the Attorney-General to incur unnecessary costs. As stated, OS 1025 was brought without satisfying the statutory requirement of obtaining the Attorney-General's consent. Furthermore, it was pursued despite the issue of the Attorney-General's consent being brought to Mr Ravi's attention right at the

outset. The Attorney-General was therefore compelled to litigate the matter and incur costs, including the costs of SUM 4742.

14 Accordingly, read with the fact that OS 1025 was utterly ill-conceived, I am of the opinion that it is just in all the circumstances to order Mr Ravi to bear the costs of SUM 4742 and OS 1025. I turn to consider Mr Cheng.

15 Mr Cheng wrote to court disclaiming any knowledge of Mr Ravi's conduct of OS 1025, and asked for personal costs not to be pursued against him. I am of the view that Mr Cheng must also bear the costs of the proceedings. As has been pointed out by the Attorney-General, Mr Cheng's name was on the cause papers in OS 1025 and SUM 4742. He is also the named partner of the firm that Mr Ravi practised out of at the material time. Finally, Mr Cheng has given a professional undertaking to supervise Mr Ravi, which is a term of the latter's Practising Certificate. In the face of all of this, Mr Cheng cannot simply disclaim knowledge of and disavow Mr Ravi's actions.

16 Accordingly, I order that Mr Ravi *and* Mr Cheng jointly and severally bear all of the costs of OS 1025 and SUM 4742, fixed at \$10,000 and reasonable disbursements, to be paid to the Attorney-General.

Kannan Ramesh
Judge of the High Court

Ravi s/o Madasamy and Cheng Kim Kuan (KK Cheng Law LLC) for
the plaintiffs;
Tai Wei Shyong, Ng Yong Kiat Francis SC, Lim Siew Mei Regina
and Ting Yue Xin Victoria (Attorney-General's Chambers) for the
defendant.