

Khor Bee Im v Wong Tee Kee
[2002] SGHC 7

Case Number : Div P 1260/1987
Decision Date : 15 January 2002
Tribunal/Court : High Court
Coram : S Rajendran J
Counsel Name(s) : Lin Shiu Yi (Hoh & Partners) for the applicant/respondent (father); Geralyn Danker (Leong Goh Danker & Subra) for the petitioner (mother).
Parties : Khor Bee Im — Wong Tee Kee

Family Law – Child – Name – Change of child's surname by deed poll – No consent sought from natural father – Application to set aside deed poll – Whether court should grant application – Applicable considerations

Judgment

GROUNDS OF DECISION

1. Khor Bee Im ("Mdm Khor") and Wong Tee Kee ("Wong") were married in February 1983 and a child Huang ZhiGang was born in May 1984. In January 1985 when ZhiGang was about 8 months old the husband (Wong) left the matrimonial home, leaving ZhiGang in the care of his wife (Mdm Khor).
2. In 1987, Mdm Khor petitioned for divorce. The Petition was not contested and a decree nisi was granted on 8 March 1988 dissolving the marriage and granting custody of ZhiGang to Mdm Khor with reasonable access to Wong. After the decree nisi became absolute, Mdm Khor met her present husband, Eng Pang Wee ("Eng") and the couple were married in 1989.
3. Pursuant to an order of court dated 28 October 1991, Wong had been ordered to pay a sum of \$650 per month as maintenance for ZhiGang. As ZhiGang grew older, Mdm Khor found that sum to be inadequate and on 31 August 2001 she applied to court for an increase in amount. On 28 September 2001, the parties obtained a consent order whereby Wong was to pay \$1,000 per month as maintenance and also as ZhiGang was now studying at a Polytechnic pay ZhiGang's Polytechnic fees. The order stipulated that the Polytechnic fees and part of the monthly allowance be paid direct into ZhiGang's POSB account. When, as a result of that order, the solicitors for Mdm Khor gave Wong a copy of the POSB book, Wong discovered (for the first time) that his son was known as "Eng ZhiGang" and not "Huang ZhiGang".
4. Upon learning of this change in name, Wong took out this application that the Deed Poll changing the name of Huang ZhiGang to Eng ZhiGang be declared void and inoperative.
5. It appears from the affidavit of Mdm Khor filed in response that she decided to change ZhiGang's surname to "Eng" in early 1990 because Wong had, from the time he abandoned ZhiGang and her in January 1985 to cohabit with another woman, shown no attachment to or desire to keep in touch with ZhiGang. It was the evidence of Mdm Khor that although she had suggested to Wong that he should spend time with ZhiGang, Wong did not do so: in all these years he had been with his son only once in early 1990. Her present husband, Eng, to the contrary, loved ZhiGang very much and Eng for all practical purposes was the only father that ZhiGang knew.
6. When the time came for ZhiGang to be enrolled in school, Mdm Khor thought it would be a good idea to change his name so that he would not have to keep explaining to friends and teachers why his

name was different from that of his "father" Eng and his sibling. She consulted a solicitor who advised that as she had been granted custody of ZhiGang she could, on ZhiGang's behalf, execute a Deed Poll to change his name. She, accordingly, did so and ZhiGang was enrolled in school in 1990 with the surname "Eng".

7. Mdm Khor's allegation that Wong showed little or no interest in ZhiGang was supported by what ZhiGang himself said in a letter ZhiGang wrote to Wong when ZhiGang learnt that Wong had taken out this application. I will not repeat the letter in full. It is an emotive letter which expressed the anger of a young man who felt deserted and unloved by his natural father. The hurt felt by ZhiGang by his father's lack of interest is evident in the following passage in the letter ZhiGang wrote to Wong:

"You actually COMMUNICATE with me like you exist, instead of what you've been doing all these years; acting like a ghostly and almost non-existent apparition whose (sic) only objective is to haunt my life."

In the course of the hearing, I interviewed ZhiGang and he told me that he had little recollection of Wong and that he would like to be known as "Eng ZhiGang".

8. Wong did not specifically refute any of the facts alleged by Mdm Khor. In support of his application, he relied principally on the ground that even though Mdm Khor had, by order of court, been granted custody of ZhiGang, such custody order did not authorise Mdm Khor, without his consent, to change the name of the child.

9. In *L v L* [1997] 1 SLR 222, custody of the child, then aged 2 years, was, consequent upon the divorce of the parents, granted to the mother. The mother subsequently married T and, without consulting the father, changed the child's surname, by Deed Poll, from M to T. The father discovered this change when the child enrolled in primary school and took out an application to declare the Deed Poll void and inoperative.

10. The judge who heard the application in *L v L* at first instance, decided that although the mother, in changing the name without consultation with the father, had acted irresponsibly and deserved the strongest criticism, the change in name had nevertheless been validly effected by the mother. He held that although the court had powers, under s 118 of the Women's Charter, Ch 353, to set aside the Deed Poll if the court felt that it was in the interests of the child to do so, in the circumstances of the case, it would not be in the interests of the child for the court to do so.

11. The Court of Appeal, however, reversed the decision of the learned judge. The reason for so doing, as stated at page 228E of the judgment, was as follows:

"The surname of a child is the symbol of his identity and the link between the child and his father. To change the surname of a child is thus a serious matter and *the court will not countenance such a change unless there are compelling reasons to do so.*

The mother was not empowered by the custody order to sever this link between M and the father unilaterally by renouncing on M's behalf her surname L and assuming on her behalf the surname T. There was also no suggestion that the father was an unfit parent showing no interest in M or that it was in any way undesirable for M to continue to be known by the surname L. The evidence was to the contrary. The father had been providing for M. *He had also been taking an*

active interest in and regularly enjoying his generous access to M.

Accordingly we allowed the appeal with costs."

[Emphasis added.]

It is clear from the above quote that the Court of Appeal had allowed the appeal because the Court of Appeal was not able to find in that case any compelling reason to justify the change of surname.

12. In keeping with the approach taken by the Court of Appeal in *L v L*, the question I have to determine is: are there compelling reasons in this case for the change of surname? Unlike the situation in *L v L*, the father in the present case (ie Wong) had shown no interest in the welfare of ZhiGang from the time Wong abandoned the matrimonial home in January 1985. In this regard, the only favourable thing that could be said of Wong was that he has contributed and is contributing towards the maintenance of ZhiGang, but, as counsel for Mdm Khor pointed out, such maintenance was a requirement of law and the payments were made under orders of court.

13. Whatever the legalities/moralities of Mdm Khors conduct in unilaterally changing the surname of ZhiGang may be, I was of the view that consideration should be given to the effect on the child should the application be granted and, in a case where the child is sufficiently mature, the wishes of the child. ZhiGang was now 17 years of age and a Polytechnic student. He had been known by the name "Eng ZhiGang" from the time he was 7 years of age. His school records, his examination certificates, his Polytechnic records, his bank account and all such important documents relating to him carry the name "Eng ZhiGang". All his friends know him as "Eng ZhiGang". Further, ZhiGang, who is now almost an adult, has no rapport with Wong and has no desire to revert to the name "Huang ZhiGang".

14. In the above circumstances, for the court to order that ZhiGangs name be changed back to "Huang ZhiGang" would cause considerable difficulties and even embarrassment to ZhiGang. It would, in my view, not be in the interests of ZhiGang to make such an order. To trace the words of the Court of Appeal in *L v L*, there are, in this case, compelling reasons for the court to countenance the change of name to "Eng ZhiGang".

15. The application by Wong in this Summons-in-Chambers is therefore dismissed. Considering that the change of name was effected by Mdm Khor without consultation with Wong, I make no order as to costs.

Sgd:

S. RAJENDRAN
Judge