

Caversham Trustees Ltd v Patel and Others

Jurisdiction:	Jersey
Judge:	P.R. Le Cras, Jurats Le Breton, King
Judgment Date:	25 November 2003
Neutral Citation:	[2003] JRC 216
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Text

[2003] JRC 216

ROYAL COURT

(Samedi Division)

Before:

P.R. Le Cras, **Esq., Commissioner, and** Jurats Le Breton **and** King

Between
Caversham Trustees Limited
Applicant
and
Sharad Chandra Patel
First Respondent

and

Rajendra Sharad Patel

Second Respondent

and

Vijendra Sharad Patel

Third Respondent

and

Urvesh Sharad Patel

Fourth Respondent

and

Hasmita Vipul Amin (alternatively known as Hasmita S. Patel)

Fifth Respondent

and

Lalitaben Sharad Patel

Sixth Respondent

and

Ibhadevid Shah

Seventh Respondent

Advocate P.C. Sinel for the Applicant.

Advocate M.J. Thompson for the First Respondent.

Advocate F.B. Robertson for the Second to Seventh Respondents.

Authorities

Parujan v Atlantic Western Trustees [\[2003\] JRC 045](#).

In re Caversam Trustees and others, **as trustees of the Huvlir Trust, the Rainbow Trust, and the Filmcorp Settlement.**

In re Articles 4, 5, 47 and 49 of the Trusts (Jersey) Law 1984, as amended.

Directions on the distribution of the trust funds, fees and costs.

THE COMMISSIONER:

- 1 The present proceedings are in an unnecessary muddle having been started as an Article 47 application.
- 2 It is quite clear to the Court that this is a trust where the trustee and the beneficiaries have fallen out to such a degree that to wind up the trust is essential. All the parties are agreed on this.
- 3 There is a dispute as to the fees the trustees are entitled to charge and as to the manner in which they are to be assessed; and what indemnities are to be given; and if the parties cannot agree how to go about these issues they must apply to the Court for directions; and the same applies *pari passu* to the costs of these proceedings which the trustees bought.
- 4 These issues are clouded however by an allegation raised previously but brought to a head very recently by Mr Sharad Patel in his unsworn affidavit at paragraph 14 that “as long ago as 1993 a very substantial payment had been made by the Bank of America possibly wrongly, in that a payment of \$1,100,100.00 was made by way of ‘repaying a loan to a shareholder’ and by enquiries about what had happened to it, so that there may be a problem.
- 5 Strictly speaking, the Court agrees that such a claim, if pursued, is in general separate to the issues of fees, indemnities and costs, and that Mr Thompson is correct in stating that any claim under this head should not be dealt with as part of the Article 47 proceedings.
- 6 However, it has here been brought forward in connection with these proceedings and if Mr Patel or the beneficiaries go on with it then, in whichever way it is settled it must inevitably impact on the discussion of, if nothing else, the fees the trustees are entitled to charge.
- 7 The Court therefore orders that this allegation, if it is to proceed, should be commenced separately in the ordinary way; and that until a decision has been reached the Article 47 proceedings should be stayed.
- 8 There will be liberty to apply in the first instance to the Court as at present constituted.