

## THE HIGH COURT

## JUDICIAL REVIEW

[2017 No. 556 J.R.]

BETWEEN

NEIL REIDY

APPLICANT

AND

LORCAN O'DONOGHUE (TRADING AS

LORCAN O'DONOGHUE WATERPUMPS)

RESPONDENT

JUDGMENT of Mr. Justice Meenan delivered on the 8th day of February, 2019

**Background**

1. These judicial review proceedings concern hearings that took place in the District Court concerning a claim by the respondent against the applicant for monies due and owing. The case was originally set for hearing on 22 March 2017. Before looking at the complaints which the applicant makes concerning this hearing it is necessary to give some detail of the course of the respondent's action against the applicant.

2. The case ultimately came on for hearing before the District Court on 22 June 2017 wherein a decree was granted for the sum of €15,000 plus costs in favour of the respondent. The applicant had a counterclaim in the proceedings but on the day of the hearing withdrew it. The court also awarded costs to the applicant in defending the counterclaim.

3. A notice of appeal was received by the solicitors for the respondent but it was not lodged in the District Court within the requisite time period. The applicant then brought an application to extend time for leave to appeal. This application was heard and determined in the District Court on 18 September 2017. On that date the court directed that if the applicant wished to lodge an appeal he would be required to lodge the full amount of the judgment, being €15,000, together with costs within fourteen days of the order. The applicant did not comply with this order so there is no appeal in being.

4. Rather than appealing the order of the District Court the applicant instituted Circuit Court proceedings against the respondent on 19 September 2017. These Circuit Court proceedings were an attempt by the applicant to re-litigate the matters that had already been determined in the District Court. Thus, on 13 March 2018, the applicant's proceedings were struck out as being *res judicata* and an abuse of process following a motion in the Circuit Court. The costs of the proceedings were awarded to the respondent. The applicant filed an appeal to the High Court in respect of this order of the Circuit Court.

5. Returning to the hearing in the District Court on 22 March 2017, the applicant made an application to adjourn the proceedings and in support of such application produced to the court a medical report. The applicant complains that the District Judge queried the medical report and thereby called into question the applicant's good name. This was apparently reported in a local newspaper.

6. As for the hearing on 22 June 2017 the applicant complains that he was not afforded a full opportunity to put forward his defence and counterclaim, to cross-examine and call such witnesses as he wished. Further, he complains that in the course of the hearing he was required to be sworn.

**Judicial review proceedings**

7. In July 2017 the applicant was granted leave to bring judicial review proceedings naming the District Judge who presided at the hearings as respondent. The then named respondent objected to this under O. 84, r. 22(2A) of the Rules of the Superior Courts. Ultimately the District Judge was removed as a respondent and Lorcan O'Donoghue (Trading as Lorcan O'Donoghue Waterpumps) was named as the respondent to the within judicial review proceedings.

8. In the statement grounding the application for judicial review the applicant seeks the following reliefs:

- "1. Recognition of *mala fides* intent by the respondent.
- 2. Vindication of my good name.
- 3. Pecuniary compensation for *mala fides* defamatory statements.
- 4. Any other measures considered appropriate by the court."

9. In a supplemental affidavit, sworn 29 November 2018, the applicant seeks to broaden his grounds for judicial review. These grounds appear to relate to the jurisdiction of the District Court which heard the respondent's claim in 2017 and also the various actions taken by the relevant District Court offices.

**Consideration of issues**

10. The objection which the applicant takes to being required to take the oath in the course of the hearing on 22 June 2017 does not appear to me to be well founded. The applicant was representing himself at that hearing and thus putting forward matters of evidence. The request that the applicant be sworn was made by the respondent. The applicant advanced no case before this Court that he was denied the opportunity to cross-examine and/or call his own witnesses other than an assertion in the grounds. Further, there was no evidence whatsoever of bias on the part of the District Judge.

11. The applicant's principal complaint concerns what he characterised as being defamatory statements made by the District Judge during the course of his application for an adjournment on 22 March 2017. This is confirmed by the applicant in his replying affidavit wherein he deposes to the following: -

"4. Not agreed. These proceedings are only related to obtaining an effective remedy against the defamatory statements made by the District Court Judge – and cannot be considered re-litigation of matters previously decided or otherwise.

Had the District Judge [X] not made any defamatory remarks these proceedings would not have been initiated..."

12. It should also be noted that the applicant confirmed in the course of the hearing, upon questioning from the Court, that his complaint was that he had been defamed by the District Judge on 22 March 2017.

13. It is, of course, the case that the District Judge has absolute immunity in respect of statements made in the course of a court hearing. Thus there is no basis for the applicant's application.

14. In his affidavit of 29 November 2018 the applicant has attempted to broaden the grounds of his judicial review application. No leave was sought for this and is considerably out of time at this stage and thus will not be considered by the Court.

#### **Conclusion**

15. The applicant has no stateable grounds for his application and these judicial review proceedings will be dismissed. It is hard to avoid the conclusion that, looking at the history of the proceedings between the respondent and the applicant, these judicial review proceedings were initiated for the purpose of frustrating the proceedings taken by the respondent for monies due and owing by the applicant. These proceedings were effectively concluded in the District Court on 22 June 2017.