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Ref: MCC10431

*Judgment: approved by the Court for handing down
(subject to editorial corrections)**

JR 17/098039/1

Delivered: 23 /10/17

IN THE HIGH COURT OF JUSTICE IN NORTHERN IRELAND
QUEEN'S BENCH DIVISION (JUDICIAL REVIEW)

IN THE MATTER OF AN APPLICATION BY PAUL MURPHY
FOR LEAVE TO APPLY FOR JUDICIAL REVIEW

McCloskey J

INTRODUCTION

[1] These proceedings, initiated on 03 October 2017, entail a challenge by the Applicant, Mr Paul Murphy, to the Taxing Master of Northern Ireland. Mr Murphy seeks leave to apply for judicial review. The focus of his challenge is in the following terms:

"The decision by the [Taxing Master] to refuse to issue/grant the order for discovery applied for by the Applicant"

Mr Murphy represents himself.

LISTING

[2] Mr Murphy lodged his leave papers on 03 October 2017. He had already requested the allocation of an early hearing date based on uncompleted proceedings in other courts. Specifically, he requested a hearing date during week commencing 02 October 2017. On 11 October 2017 the Judicial Review Office, giving effect to my positive response to the Applicant's request for expedition, notified him of a listing on 13 October. While his electronic response of 12 October 2017 hinted at a lack of preparation time and canvassed the possibility of a later date, neither of these suggestions was raised by the Applicant at the hearing on 13 October 2017. No inhibition or impediment was evident in the Applicant's presentation of his case.

[3] For completeness I record that on the same date, 13 October 2017, a second review challenge, brought by the Applicant against the Institution of Civil Engineers, was listed for an oral *inter-partes* leave hearing [see 2012/65645101]. This was a leave

application which, by 13 October 2017, had passed its fifth anniversary. Once again, the Applicant represented himself and presented his case with some aplomb.

THE APPLICANT'S CHALLENGE

[4] One can ascertain from the papers lodged that in 2015 there were proceedings in the Family Division. These were entitled Paul Murphy v Martin Murphy, ICOS No 14/01798/A02. By order of O'Hara J dated 13 October 2015:

"The Court orders that the appeal dated 12 August 2015 be hereby dismissed without adjudication on the merits on the basis that this Court has no jurisdiction to hear the appeal

The Appellant shall be condemned in the costs of this appeal, same to be taxed in default of agreement."

The process of taxing the aforementioned costs remains uncompleted and provides the framework within which these proceedings have been generated. I shall describe Martin Murphy as "MM".

[5] Thus the successive forms of legal proceedings in which the Applicant has been and/or remains involved are, at least, threefold:

- (a) The 2015 proceedings in the Family Division of the High Court.
- (b) The consequential proceedings before the Taxing Master.
- (c) This judicial review challenge.

[6] An insight into the discovery which the Applicant sought in the underlying taxation proceedings is provided by the terminology of his letter dated 24 August 2017 to the Taxing Master, which describes his "*application for an order for discovery in relation to the full and true circumstances of the case in which I was condemned to [sic] costs.*"

This letter continues:

"The information/evidence that I seek will confirm whether the actions of Mr Doherty's clients (Mr Fields and Mr Lannon) and of their client (Mr Martin Murphy) are/were unprofessional and/or criminal and thereby establish if their claims for costs in this and other, related matters are/were fraudulent/criminal, an abuse of a Court order for costs and/or represent a further attempt at criminal extortion."

The aforementioned Mr Doherty is a legal costs consultant who, in the underlying taxation proceedings, prepared a bill of costs which the Applicant disputes. The other mentioned were, evidently, the instructed solicitor and counsel.

[7] There is no evidence in the papers filed of any order or decision of the Taxing Master refusing an application by the Applicant for a discovery order.

[8] Subject to that observation, the Applicant seeks various forms of relief, primarily an order quashing the alleged decision of the Taxing Master. The grounds of challenge occupy two pages of dense type. They contain, fundamentally, assertions that MM has twice failed to comply with orders/directions of the Taxing Master to provide *“the information/documentation sought by the Master”*, the most recent deadline being 15 September 2017. Duly interpreted and deconstructed, the Applicant’s grounds of challenge are:

- (a) A failure to take into account *“adequately or at all”* certain considerations, which are specified.
- (b) Breach of *“the Applicant’s right to fair procedure under the Human Rights Act 1998 and the Applicant’s right to be protected from extortion through the actions of corrupt/unscrupulous persons”*.
- (c) Bias (without particulars).
- (d) The frustration of a legitimate expectation of (in terms) a fair and proper adjudication of the disputed bill of costs.

[9] At this juncture it is appropriate to refer to a NICTS letter dated 16 June 2017 to the Applicant, written on behalf of the Taxing Master, in response to his application for discovery:

“The issues you raised will be dealt with by the Master when the bill is taxed insofar as they are relevant to taxation. The Taxing Master has written to [the costs consultant] requesting him to provide:

- *An itemised bill detailing the time spent by Counsel and Solicitor in Court and the time spent consulting;*
- *A schedule of work itemising the work undertaken by the Solicitor.*
- *One complete set of pleadings.*

- *One copy of the brief to Counsel together with Counsel's advice and opinion.*

The Master has also directed that the Solicitor's complete file should be brought to Court for the purpose of the Master examining correspondence and attendance notes. The Master has directed that this be done within two weeks and that a copy of the itemised bill should be served on you. Thereafter the matter will be listed for taxation before the Master."

This is the first of two letters identified in the Applicant's pleading. The second, namely that dated 28 June 2017 from NICTS, adds nothing of substance to the first.

CONSIDERATION AND CONCLUSIONS

[10] The Applicant's oral submissions to the Court had two features of substance. First, he stated that he was conducting an "... appeal to this Court to issue a direction to the Taxing Master to direct disclosure of documents" [emphasis added]. Second, he indicated that he is now in a position to adduce further evidence of the allegedly unreasonable and improper conduct of MM and his legal representatives in the original Family Court proceedings. While he did not specifically apply to adduce this evidence, I indicated to him my view that it had no apparent potential to bear on this Court's resolution of his judicial review challenge: see further below.

[11] The first grave infirmity from which this challenge suffers is that the "decision" which the Applicant challenges is non-existent. His application for discovery of documents in the underlying proceedings, contrary to the fundamental premise of his challenge, has not been "refused". There is no refusal decision.

[12] I consider the correct analysis to be as follows. What the Taxing Master has done is to highlight, in a purely informative and non-binding way, that the taxation proceedings are ongoing; the issues raised in the Applicant's discovery request will be fully considered; the request (in terms) is premature; and the documents provision whereof has been directed by the Master will be copied to the Applicant when received. This has been effected, and communicated to the Applicant, through the entirely appropriate - and laudable - mechanism of an informal case management indication.

[13] To the foregoing I would add that if and insofar as it is possible to identify a "decision" of the Master in the terms asserted by the Applicant, the grounds of challenge do not disclose any discernible arguable public law misdemeanour, by a considerable measure. They are replete with bare, unparticularised assertion; they are formulated in an unreal, imaginary vacuum and they complain of procedural unfairness in a context where the procedure is far from complete and is some

distance from the stage when any proper evaluation of overall fairness will fall to be conducted. In this sense, the Applicant's challenge represents inappropriate satellite litigation. It also constitutes a wholly misconceived endeavour to procure from this Court procedural micromanagement of the immediately underlying proceedings.

ORDER

[14] Leave to apply for judicial review is refused accordingly. The Applicant will bear his own costs. There is no public funding provision to be considered. Nor is there any issue concerning the costs of any other party.