

S v S (Judgment in Chambers: Disclosure)

[1997] 1 WLR 1621

18/04/1997

Barristers

Michael Sternberg OBE KC

Court

Family Division

Facts

Following the hearing of the wife's application for ancillary relief in divorce proceedings, the judge gave a written judgment in chambers in which he found that the husband had wrongfully evaded payment of United Kingdom tax. The wife's brother obtained an official transcript of the judgment, to which he was not entitled, and forwarded it to the Inland Revenue, who commenced inquiries into the husband's tax position. In support of those inquiries the revenue sought leave (i) pursuant to rule 10.15(6) of the Family Proceedings Rules 1991¹ to keep the transcript, (ii) pursuant to rule 10.20(3) to inspect the affidavits and documents produced in the course of discovery in the ancillary relief proceedings and (iii) pursuant to rule 10.15(6) to obtain a transcript of the oral evidence given at the hearing.

On the application:—

Held

Held, refusing the application, that in exercising its discretion under rules 10.15(6) and 10.23(3) of the Rules of 1991 the court had to weigh the public interest in due payment of tax and punishment of tax evaders against the public interest in parties to ancillary relief proceedings making a full and frank disclosure of their resources and of their financial history; that, since the finding of tax evasion was inferential and of a general character and there was no admission by the husband of evasion or any document directly probative of it, in the circumstances, the balance of the public interest lay against granting the application; and that, accordingly, the revenue would be ordered to deliver up all copy transcripts of the judgment in its possession (post, pp. 1625B-C).

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