

Re B (A Child) sub nom RB v (1) FB (2) MA (2008)

[2008] 2 FLR 1624; [2008] EWHC 1436 Fam

15/04/2008

Barristers

Teertha Gupta KC

Court

Family Division

Summary

It had been appropriate to make a ward of court order in relation to a 15-year-old girl, a British and Pakistani national living in Pakistan and facing a forced marriage in that country, in light of her exceptional and dire circumstances.

Facts

In a matter where a 15-year-old girl (C), a British and Pakistani national, had been made a ward of court, the court gave judgment as to its jurisdiction to make such an order. C's father had been a British citizen and had returned to Pakistan and married C's mother (M). C had been born in Pakistan and had lived there all her life. Her father died in 2003. C had an elder half brother (Y) who lived in Scotland. M had been orphaned as a child and had a protector (S). M and S had arranged for a marriage between C and S's son (X) to take place on April 10, 2008. X was considerably older than C, she did not know him and there was a suggestion that he was an alcoholic. C did not wish to go through with the proposed marriage and in March 2008 she contacted the High Commission in Islamabad and Y asking for help to be taken out of the situation she found herself in and to go and live with Y in Scotland. The British Foreign and Commonwealth Office had assessed C as being Gillick competent and had advised the Forced Marriage Unit in London that it wanted to help C but required legal backing and court orders before it could do so. C was made a ward of court on April 3, 2008, and appropriate orders were made to enable her to come to the UK. C came to her half brother's home six days later.

Held

HELD: C had no connection, other than her father's nationality, with this country and the question for the court was whether its inherent jurisdiction and the *parens patriae* principles could be extended to protect her. When dealing with the *parens patriae* jurisdiction, the courts of this jurisdiction should be extremely circumspect in assuming any jurisdiction in relation to children physically present in some other jurisdiction founded only on the basis of nationality. However, in the very dire circumstances of the instant case the court had come to the view that the tentacles of the court should stretch towards Pakistan to rescue C from the circumstances she found herself in. It was a very unusual thing to do but the circumstances had justified the ward of court order. The marriage was going to be a forced marriage

totally against the will of a 15-year-old child. C wished to be rescued and had sought help from the British jurisdiction. It was wholly and completely wrong to require a young person or anyone to enter into a marriage contrary to his or her wishes and even more so when they were under age. Arranged marriages were one thing; forced marriages were beyond the pale and indeed abusive. It would not have been right to ignore C's pleas. There would potentially be cases in the future where the circumstances were not sufficiently dire and exceptional and when orders would not be appropriate. Each case would turn on its own facts. A similar order would only be made again if there were similarly exceptional circumstances, *Al-H (Rashid) v F (Sara)* (2001) EWCA Civ 186, (2001) 1 FLR 951 considered. The wardship order would be discharged as the Scottish courts were now seized with the matter. The judgment would be a useful tool for the Foreign and Commonwealth Office and the Forced Marriage Unit to have in the hope that it would provide some guidance for them for the future.

Permission

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