THE WEEKLY LAW REPORTS

1992

VOLUME 1

London
THE INCORPORATED COUNCIL OF LAW REPORTING
FOR ENGLAND AND WALES
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A construction of the rules in question. The plaintiff is entitled to any costs occasioned by the proposed amendment to the notice of appeal. It follows that in awarding the first defendant the costs of this appeal, these do not include any costs relating to the proposed amendment to the notice of appeal.

B BALCOMBE L.J. I agree.

LORD DONALDSON OF LYMINGTON M.R. I also agree.

Appeal allowed with costs.
Leave to appeal refused.

C *Solicitors: J. W. Ward & Son, Bristol; Fennemores, Milton Keynes.*

D. E. C. P.

D

[HOUSE OF LORDS]

E *CHANNEL TUNNEL GROUP LTD. AND ANOTHER . PETITIONERS

AND

BALFOUR BEATTY CONSTRUCTION LTD. AND OTHERS . . . . . RESPONDENTS

1992 June 11 Lord Keith of Kinkel, Lord Ackner and Lord Browne-Wilkinson

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PETITION by the plaintiffs for leave to appeal from the decision of the Court of Appeal [1992] 2 W.L.R. 741.

The Appeal Committee allowed the petition.

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[FAMILY DIVISION]

*PRACTICE DIRECTION (FAMILY DIVISION: DISTRIBUTION OF BUSINESS)

Practice—Family Division—Transfer of business—Distribution of business between the High Court and county court—Factors to be considered before transferring proceedings—Matrimonial and Family Proceedings Act 1984 (c. 42), ss. 38, 39

1. These directions are given under section 37 of the Matrimonial and Family Proceedings Act 1984 by the President of the Family Division, with the concurrence of the Lord Chancellor, and apply to all family proceedings which are transferrable between the High Court and county courts under sections 38 and 39 of that Act. They supersede *Practice Direction (Family Division: Business: Distribution)* [1988] 1 W.L.R. 558 given on 6 April 1988, save in respect of family proceedings concerning children pending immediately before 14 October 1991. They do not apply to

(*a*) proceedings under the Children Act 1989 or under the Adoption Act 1976, which are governed by the Children (Allocation of Proceedings) Order 1991;

(*b*) an application that a minor be made or cease to be a ward of court, or to proceedings under Part III of the Matrimonial and Family Proceedings Act 1984, which may be heard and determined in the High Court alone.

2. (1) Family proceedings to which these directions apply (including interlocutory proceedings) shall be dealt with in the High Court where it appears to the court seised of the case that by reason of the complexity, difficulty or gravity of the issues they ought to be tried in the High Court.

(2) Without prejudice to the generality of sub-paragraph (1), the following proceedings shall be dealt with in the High Court unless the nature of the issues of fact or law raised in the case makes them more suitable for trial in a county court than in the High Court:

(*a*) petitions under section 1(2)(*e*) of the Matrimonial Causes Act 1973 which are opposed pursuant to section 5 of that Act;

(*b*) petitions for presumption of death and dissolution of marriage under section 19 of the Matrimonial Causes Act 1973;

(*c*) proceedings involving a contested issue of domicile;

(*d*) applications under section 5(6) of the Domicile and Matrimonial Proceedings Act 1973;

(*e*) applications to restrain a respondent from taking or continuing with foreign proceedings;

(*f*) suits in which the Queen's Proctor intervenes or shows cause and elects trial in the High Court;

(*g*) proceedings in relation to a ward of court—(i) in which the Official Solicitor is or becomes the guardian ad litem of the ward or of a party to the proceedings; (ii) in which a local authority is or becomes a party; (iii) in which an application for blood tests is made; (iv) in which an application is opposed on the grounds of want of jurisdiction; (v) in which there is a substantial foreign element; (vi) in which there is an opposed application for leave to take the child permanently out of the jurisdiction or where there is

A an application for temporary removal of a child from the jurisdiction and it is opposed on the ground that the child may not be duly returned;

(*h*) interlocutory applications involving—(i) *Mareva* injunctions; (ii) directions as to dealing with assets out of the jurisdiction;

(*i*) petitions in respect of declarations under Part III of the Family Law Act 1986.

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3. (1) Proceedings in the county court for an order within sub-paragraph (2) shall be heard and determined in the High Court where either the county court or any party to the proceedings considers that any such orders, if made, should be recognised and enforced in Scotland or Northern Ireland under Part I of the Family Law Act 1986.

(2) The orders referred to in sub-paragraph (1) are those made by C the county court in the exercise of its jurisdiction relating to wardship so far as it determines the living arrangements of a child or provides for the education of, or contact with, a child.

4. In proceedings where periodical payments, a lump sum or property are in issue the court shall have regard in particular to the following factors when considering in accordance with paragraph 2(1) above D whether the complexity, difficulty or gravity of the issues are such that they ought to be tried in the High Court:

(*a*) the capital values of the assets involved and the extent to which they are available for, or susceptible to, distribution or adjustment;

(*b*) any substantial allegations of fraud or deception or non-disclosure;

E (*c*) any substantial contested allegations of conduct.

An appeal in such proceedings from a district judge in a county court shall be transferred to the High Court where it appears to the district judge, whether on application by a party or otherwise, that the appeal raises a difficult or important question, whether of law or otherwise.

5. Subject to the foregoing, family proceedings may be dealt with in F a county court.

6. Proceedings in the High Court which under the foregoing criteria fall to be dealt with in a county court or a divorce county court, as the case may be, and proceedings in a county court which likewise fall to be dealt with in the High Court shall be transferred accordingly, in accordance with rules of court, unless to do so would cause undue delay or hardship to any party or other person involved.

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SIR STEPHEN BROWN P.

5 June 1992

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