

**IN THE SUPREME COURT OF TONGA
FAMILY JURISDICTION
NUKU'ALOFA REGISTRY**

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FA 18 OF 2018


22/03/18

BETWEEN : FEHOKO FOLIAKI PALU

Applicant

AND : SEMISI FAKATETE 'I KOLOA PALU

Respondent

Hearing : 21 March 2018

**Counsel : Mr D. Corbett for the applicant
Mr W C Edwards Snr SC for the respondent
Miss J Sikalu for the Guardian ad Litem**

MINUTE

- [1] This matter was called before me today on an urgent basis on the application of the Guardian ad Litem.
- [2] The Guardian ad Litem had come into possession of information concerning complaints made by the applicant to the Police against her *de facto* partner including allegations of rape, serious sexual and other assaults. She also alleged that her *de facto* partner has acknowledged a sexual relationship with a step-daughter aged 16 and the termination of a pregnancy that resulted from it.

- [3] The Guardian ad Litem is concerned that in light of these allegations the subject children are at risk if the applicant continues to exercise access in the presence of her *de facto* partner.
- [4] The Guardian ad Litem asks that the Orders made granting the applicant access to the children on weekends be discharged and that the *de facto* partner be forbidden to go near or communicate with the children.
- [5] Mr. Corbett took instructions from the applicant and advises me that the applicant has now withdrawn the complaints, that she has exercised access to the children in the presence of her *de facto* partner without incident and that she will not accept alternative access arrangements which either require her *de facto* partner to leave the house during the periods of access or have her exercise access at her relatives' homes (where the children are living).
- [6] Despite all that Mr. Corbett has impressed upon me the allegations the applicant has made against her *de facto* partner are simply so grave that they cannot be ignored irrespective of whether the applicant has now withdrawn the complaints to the Police. I am of course making no finding that the allegations are truthful. I note however that even if the allegations are found to be untruthful the fact that they were made indicates a seriously dysfunctional relationship between the applicant and her *de facto* partner which I am not, pending the final hearing, prepared to expose the children to.
- [7] The present access Orders (last made 16 March 2018) are discharged.

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- [8] I make an Order that the applicant may exercise reasonable access to the subject children, Mele and Selai, either at school or at the homes at which they presently reside as agreed with their present custodians. If there is any dispute it may be referred back to me on 24 hours notice.
- [9] Pending further Order of the Court the applicant is not to exercise access to the children in the presence of her *de facto* partner, Mr. Permal Gounder.
- [10] The timetabling orders made in paragraphs 1 and 2 of my minute of 16 March 2018 are unaffected. The substantive application for custody orders shall be heard on **16-18 May 2018**.
- [11] I raised with Mr. Corbett whether it was appropriate and in the applicant's interests to grant her a Protection Order. I am advised that the applicant intends to remain with her *de facto* partner and does not require a Protection Order to be made.
- [12] Costs on today's appearances are reserved.

DATED: 21 March 2018



A handwritten signature in black ink, appearing to read "Q.G. Paulsen".

Q.G. Paulsen
LORD CHIEF JUSTICE