

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

FD 30 of 2015

S.H.G.

24/05/16
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BETWEEN: SIOPE SOAKAI TU'I'ONETOA

- Petitioner

AND: 'ANA VAOHEA TU'I'ONETOA

- Respondent

Hearing: On the papers.

Counsel: Ms. M. Pale – Palelei for the respondent

RULING

1. The respondent has applied ex parte for an urgent order that the petitioner be restrained from leaving the country until satisfactory arrangements are made towards the payment of maintenance.
2. The marriage between the parties was dissolved on 30 April 2015 at which time Justice Cato ordered the petitioner to pay \$250.00 per month to the respondent. The order does not say if this was for maintenance of the respondent, the children of the marriage or both.
3. The respondent's affidavit says that the petitioner is up to date with his maintenance obligations but she has received reliable information that he intends to leave Tonga to attend a funeral and that he "will somehow breached [sic] our agreement and left for overseas and never returned back here."
4. The respondent provides no authority under the Supreme Court Rules or otherwise that the Court has any jurisdiction to make an order to restrain the liberty of a person who is subject to a Court order for the payment of maintenance and:

rec'd 18/05/16
H.C.

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- 4.1 Is complying with his obligation;
- 4.2 Has not threatened to breach his obligation.
5. Despite undertaking my own research I have found no authority for the making of such an extraordinary order either. The application is dismissed.
6. It appears that no attempt has been made by the respondent or her Counsel to contact the petitioner to find out how long he will be away or what his intentions are in respect to his maintenance obligation. The Court would expect such enquiries to be made before applying for an injunction.



A handwritten signature in black ink, consisting of a large, stylized 'O' followed by a horizontal line that curves upwards at the end.

NUKU'ALOFA: 12 MAY 2016

**O.G.Paulsen
LORD CHIEF JUSTICE**