Case No: HQ15X02904

Neutral Citation Number: [2015] EWHC 2370 (QB)

IN THE HIGH COURT OF JUSTICE
QUEEN'S BENCH DIVISION

Royal Courts of Justice
Strand, London, WC2A 2LL

Date: 6th August 2015

Before :

MR JUSTICE EDIS

- -

Between :

ANDREW ERLAM	**Claimant**
- and -	
MOHAMMED LUTFUR RAHMAN	**Defendant**

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- -

Francis Hoar (instructed by **Richard Slade & Co**) for the **Claimant**
Forz Khan (instructed by **HMA Solicitors**) for the **Defendant**

Hearing dates: 3rd August 2015

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Judgment

Mr. Justice Edis:

1. The 3rd August 2015 was the return date for an interim freezing and disclosure order granted to the claimant in support of enforcement of an unpaid debt. A claim form under Part 8 has been issued claiming an injunction in similar terms as the substantive relief in these proceedings. On the return date, the claimant applied for an order granting the injunction for a period of two years, and for further disclosure. I extended the existing order until 11.59pm on 6th August and reserved my decision until 09.30am on that date. This is my decision.

Procedural history

2. An order without notice was granted by Knowles J on 29th June 2015 and the matter first came before me on the return day specified in his order, the 7th July 2015. On that occasion the defendant was represented by solicitors and counsel. I continued the order, varied some of the disclosure provisions and extended its reach to cover assets anywhere in the world. I fixed the main return date for 3rd August 2015 and ordered that a further hearing should be held on 10th July 2015. The purpose of that hearing was to consider any application which the defendant wished to make to use his assets to meet legal costs in proposed judicial review proceedings. That hearing took place and, again, the defendant was represented at it. No substantive application was made for access to the frozen funds to meet the future costs of the application for judicial review. The defendant said in a witness statement dated 9th July 2015 that his solicitors in those proceedings, K&L Gates, held funds which were already allocated to past costs. He said that his costs going forward will be funded entirely by third parties. At the hearing on 10th July I was informed that his costs of these proceedings would be met by well wishers of the defendant and that he did not need access to his frozen funds for that purpose. The defendant did not oppose the making of the orders which I made at either hearing before me.

The judgment debt

3. The defendant was the Mayor of Tower Hamlets, having been elected as such on the 22nd May 2014. Soon afterwards, the claimant and three others began proceedings before the High Court under the Representation of the People Act 1983 to have the election set aside on several grounds, principally the alleged commission by the defendant or his agents of corrupt and illegal practices contrary to that Act. Mr. Richard Mawrey QC was appointed as Election Commissioner to conduct the trial and to report to the High Court under sections 145, 158, and 160 of the Act. The trial lasted from 2nd February-13th March 2015 with oral submissions being made on 24th March 2015. A reasoned judgment was handed down by the Commissioner on 23rd April 2015 and is to be found at [2015] EWHC 1215 (QB). A consequential order was made which was sealed on 27th April 2015. The result is well known and was in favour of the petitioners and adverse to the defendant. The only aspect of it with which I am concerned is the order for costs which was made. This provided that the defendant was to pay the Petitioners' costs of the petition to be assessed on the standard basis if not agreed, and payment on account of costs was ordered in the sum of £250,000. No time was specified for payment which means that they were payable with 14 days, namely by 7th May 2015. No payment has been made by the defendant, and this is the debt which is the reason for the present claim for a freezing order.

Judicial Review

4. I am told that the defendant has now issued judicial review proceedings to challenge the decision of the Commissioner at least in part. I have seen the Grounds for Judicial Review and I accept that although some of the conclusions of the Commissioner which were adverse to the defendant are not challenged, their outcome may affect the costs order. The application for permission has not yet been heard and it is conceivable that, if permission is granted, the proceedings will not be concluded for a considerable period of time.

The Charging Orders

5. Initially, the claimant (whose entitlement under the order is joint and several and whose title to bring these proceedings is not disputed) sought to enforce the judgment by seeking charging orders. There are, in all, three London properties which are the subject of argument before me. They are 30 Deal Street, London E1 5AH and numbers 3 and 5 Grace Street London E3 3DJ. Interim Charging Orders were granted by Master Yoxall in respect of Deal Street and 3 Grace Street on 27th April 2015. Those two properties alone appear to afford sufficient security for the payment of the judgment debt if the defendant is beneficially entitled to the whole of the equity in them. The third property, 5 Grace Street, was the subject of later proceedings because only latterly did the claimant seek to contend that the defendant had a beneficial interest in it. I summarise the position as to the properties as follows:-

	Interim C/O	Final C/O	Disclosure date for defendant	Estimated value of equity (subtracting initial mortgage advance from online valuations produced by D): no account is taken of the effect on the equity of the mortgage instalments which have been paid by the defendant.	D's contention as to his interest	Legal Title
30 Deal Street	27/4/15		24/7/15	c. £364	0%	D's sole name
3 Grace Street	27/4/15	29/6/15	24/7/15	c. £255	26%	D's sole name
5 Grace Street	16/7/15		31/7/15	D denies any interest in this property and has produced no figures.	0%	D's wife's sole name

6. These three properties are investment properties which produce rent. The defendant and his family live at another property in which he says he has no interest.

7. Initially the claimant's solicitors considered that their charging orders would secure payment of the costs (which may exceed £250,000 after assessment). They believed that he was the sole beneficial owner of 3 Grace Street and Deal Street. They believed that to be the case because that is what he had said in evidence during the trial of the Petition. I have read the transcript of that evidence, and will not set it out

here. It was unqualified by any reference to any interest in these two properties being vested in his wife, although he did also say that she owned another property, which turned out to be 5 Grace Street. On 23rd June 2015 an application was received from Ayesha Khatun Farid, who is the defendant's wife, objecting to the charging orders and applying to be joined. She claimed a 74% interest in 3 Grace Street and a 100% interest in Deal Street, and produced declarations of trust dated 16th May 2006 to make her claim good. In the event, she was joined to the charging order proceedings and directions were given. Her claims to an interest in all three properties are due for trial on 1st December 2015. It was this intervention and the defendant's confirmation that it was his case also that his interest in these properties was limited to the same extent that caused the claimant to seek an injunction, and which was an important part of the evidence which caused it to be granted. The claimant contended that he had been misled as to the extent of the security for the debt in correspondence if the new contentions were true.

8. I have included the date for disclosure in the Table above because it shows that by now the defendant should have given disclosure of documents relevant to the issue in those proceedings, namely the extent of any beneficial interest he or his wife may have in the properties. She was subject to the same directions.

9. The claimant appreciated that if the claims of the defendant's wife proved to be correct, there would only be 26% of the equity in 3 Grace Street available to satisfy his claim, perhaps some £66,300. He therefore brought these proceedings to secure the benefit of any other assets the defendant may have by preventing their dissipation.

The Freezing and Disclosure Orders: procedural history and evidence served

10. The without notice order of Knowles J restrained the defendant from disposing of any of his assets up to the value of £350,000. That exceeds the judgment sum, but the payment on account of costs was based only on an estimate of the costs which have yet to be assessed. He was also ordered to inform the claimant's solicitors, to the best of his ability, of all his assets in England and Wales, whether in his own name or not and whether solely or jointly owned giving the value, location and details of all such assets. He was required to verify this on affidavit by 6pm on Friday 3rd July. He was allowed living expenses of £500 per week and also a reasonable sum for legal advice and representation.

11. On 1st July 2015 the defendant swore an affidavit. It disclosed the existence of three bank accounts with credit balances totalling £12,659.62. In relation to property he said that the legal titles to Deal Street and 3 Grace Street were in his sole name but said that he had no beneficial interest in Deal Street and a minority beneficial interest in 3 Grace Street. This exiguous information did not explain what had happened to the defendant's earnings over the years, or how he had managed to fund his defence to the proceedings in the Election Court.

12. My first Order made on 7th July 2015, but sealed on 8th July, was in similar terms. The sealed copy of the order in the bundle recites that the hearing was without notice to the defendant. This is wrong. Counsel appeared on behalf of the defendant, instructed by his present solicitors in these proceedings who had themselves only just been instructed. Before it was sealed I was sent a draft by counsel and I caused my clerk to point this error out to counsel and she received the response

"Yes that it is correct.

Upon hearing Counsel for the Claimant and Counsel for the Defendant.

The Defendant had notice of the hearing. "

13. It now required disclosure of all assets worldwide. This was because of a concern about where the defendant's assets might be in view of his disclosure. He had said through his counsel that he had no assets abroad, and the order therefore simply required him to confirm that on oath if it was true. The Order contained a more specific disclosure obligation requiring information about Deal Street and 3 Grace Street, and tax returns, and full disclosure of all income. I also ordered him to provide details of all expenditure of all sums over £500 from 1st January 2010 to date. I ordered disclosure of details of third party funding for the defendant's legal costs because they would be relevant to the extent to which he required his frozen assets to fund legal advice and representation, in particular in connection with the judicial review proceedings. Further, if the suggestion that his costs had been paid by third parties could not be substantiated, it would imply that the defendant himself had access to very substantial sums.

14. On 9th July 2015 the defendant made a witness statement. This was in support of an application for the sum of £80,466.20 held by K&L Gates to be spent on outstanding legal fees from the trial and on the preparation of the judicial review application. My order had made no allowance for that sum to be paid, but had given liberty to apply on 10th July 2015 and ordered that evidence in support should be served on 9th July. In the event that hearing resulted in a somewhat amended Order (finally sealed on 17th July after correspondence between the parties and with the court) which made adjusted provision for living expenses but still did not permit the use of assets for legal fees because I was told orally by counsel that the ongoing costs in these proceedings would be met by third parties. I have referred to the funding of the judicial review proceedings above. I made it clear that I was allowing a lengthy period for compliance with the disclosure provisions because they were onerous and because it was important that the defendant took care to avoid careless errors. After this Order the claimant and K&L Gates have agreed that the funds held by them can be defrayed for legal expenses, and I am not concerned with that fund any longer.

15. The disclosure provisions in the Order sealed on 17th July for present purposes required disclosure to the best of the defendant's ability by 29th July 2015 of the following things, among others:-

"6.2.1 Full details of the accounts from which fund were used by the defendant or any third party to purchase 30 Deal Street, London E1 5 AH and 3 Grace Street, London E3 3DJ, both of which are registered in his sole name and of any other properties in which the defendant has a beneficial interest which has yet to be disclosed…including the name of the account holder and/or holders; and full details of the date and amount of any payments made to finance the purchase in any way;

> 6.2.6 The defendant's expenditure in the above period [from 1st January 2010 to date] of any sum over £500 including by means of the withdrawal of cash from any of his deposit or other accounts and details of all such expenditure. The defendant may disclose bank statements from all his bank accounts in compliance with this provision."

16. On 29th July 2015, within time, the defendant served his second affidavit. This repeated what he had said before about the ownership of the properties. It contained a passage about what had become of a fund raising effort launched on 30th April 2015 at a political meeting seeking donations (not loans) to be credited to a particular bank account. In relation to the two disclosure orders identified above, it contained somewhat surprising omissions. First he said

> "In response to order 6.2.1 I make the following statement. In or about June 2005 I purchased 3 Grace Street and a month later in July I purchased 30 Deal Street. The former was purchased for £232,000 with a down payment deposit of £56,288 and mortgage (from Mortgage Express) of £176,544. the purchase was financed from my NatWest current account to Maxwell Solicitors. Of this total down payment, 26% was contributed by me and the remainder 74% from my wife. As regards 30 Deal Street the purchase price of this was approximately £280,000 of which £117,000 came from my wife and her relatives and the remainder from a mortgage (from Redstone Mortgage). Once again the purchase of this property was made from my NatWest current account. As the claimant's lawyers are aware these properties are currently the subject of Charging Order proceedings involving my wife and she will be making full disclosure in due course. I therefore do not wish to prejudice her case in any way."

17. As I have noted above, the directions in the Charging Order proceedings require both the defendant and his wife to have given disclosure of documents already. The defendant did not disclose anything else. Exhibit MLR 6 is the list of payments exceeding £500 from the three bank accounts in the relevant period. It shows that since January 2010 the defendant has been paying Redstone Mortgage a monthly sum by direct debit which must be the mortgage on Deal Street. The defendant has not explained or produced any documents which explain

    i) Why he has been paying the mortgage on a property in which he has no interest? On the face of it the discharge of the mortgage would appear to evidence a claim to a beneficial interest in the property. He has also been paying what I understand to be the whole mortgage on the other property although he says he has only a 26% interest in it. I know this because of the authorisation which I have granted to the Bank to continue to make these payments, which are less than £500, under the existing direct debit.

    ii) Why he has been receiving the rental income from a property in which he has no interest, see MLR/4. He told me through counsel (the defendant was

present at the hearing on 3rd August 2015) that the rental income has been declared to HMRC. The account of the rental income was drawn up very recently by Consilium Consulting LLP and shows the defendant as the "proprietor" of both Deal Street and 3 Grace Street. It confirms that the mortgage interest was deducted from the profit and also certain other sums which are itemised going back to 2010.

18. Secondly, the defendant produced a list of payments out of three bank accounts, which are the same ones which he had previously disclosed. These payments exceed £500. Where they were payments by cheque, no information is given apart from that fact. No information at all was provided about who the money went to, and what the defendant bought with it. I asked whether he filled in and kept counterfoils. I was told, by counsel speaking in the presence of the defendant, that he does not keep records and could not possibly identify the payees of all these cheques. I do not know how Consilium LLP have managed to vouch for the deductions from the rental income going back to 2010 without any records. I was told that two cheques totalling £35,000 paid in April 2014 were for legal expenses in contemplated defamation proceedings. This fact was not disclosed in compliance with my order, but shows that information does exist which could have been given in the affidavit, for which I allowed time to ensure it could be properly and completely prepared.

My approach to the evidence

19. It is submitted that the omission of the details of the contributions made by the defendant to the purchase of the properties is a clear contempt of court and similarly that the failure to identify the destination of cumulatively large sums by cheque is a contemptuous failure to provide "details" of expenditure as ordered. As I indicated in the course to the hearing, there is no application before me to commit the defendant for contempt and I do not intend to make any ruling on that issue. If an application is made to commit the defendant for contempt, any explanation he may have will have to be fairly considered and the terms of the Order strictly construed to determine whether he is guilty of contempt of court.

20. It is, however, reasonable for me to approach my present task on the basis that the application for interim relief was properly founded because there are good grounds to believe that the defendant is seeking to minimise the extent of his interest in Deal Street and 3 Grace Street. Since its grant, there are questions about the defendants' candour in giving disclosure which he has not resolved by his evidence. It is quite clear from what I have already said that he has not disclosed the full position in regard to Deal Street and 3 Grace Street. His failure to identify the destination of any payment by cheque over the last five years may or may not amount to a contempt of court, but it justifies a finding that his approach to these proceedings is such that unless restrained there is a real risk that he will dissipate his assets. The submission that such large payments in round sums by cheque justifies an inference that the money has been used to acquire assets is sound. If it is wrong, the defendant could have shown that by explaining where the money went. Mr. Khan, counsel for the defendant, told me on instructions that the defendant had spent all his money on "politics". I cannot act on that assertion, unless and until it is supported on oath, accompanied by persuasive detail and documentation. If he did acquire any assets with the money, he has not disclosed them. If he is concealing them, it is because he

does not wish them to be available to satisfy the judgment debt. This is, in itself, a form of dissipation for present purposes.

21. Certain further matters arise from the disclosure in the affidavit of 29th July 2015 which lead to the same result. A comparison of MLR/6 (the payments out of the three bank accounts) and MLR/7 (the "loans" made by third parties to fund the defendant's legal expenses) reveals further questions. The "loans" identified in MLR/7 total £749,500 and were made by 53 different donors. Ms. Turner, the claimant's solicitor has filed evidence to show that some of these individuals are not likely to have been able to afford such sums. I will not set it out in full, but an example is Foujiya Sultana. She is said to have lent the defendant £80,000 between September and December 2014 and a further £2,500 since. The defendant said in his evidence at the trial that Foujiya Sultana was his niece aged 23 or 24 years. She has a job which is not likely to enable her to acquire large capital sums. Rafia Munni is said to have paid £8,000 directly to K&L Gates on 17th July 2014. This is the only payment so described and I infer that the rest of the payments (amounting to £741,500) were made to the defendant who paid them onwards to K&L Gates. This inference is supported by the payments out to that firm from the defendant's Natwest account to which I will come shortly. In addition to that payment Rafia Munni paid further sums amounting to £34,730 in September and November 2014. Again, the evidence suggests that her employment is unlikely to generate such sums. Limehouse.com is said to have lent £25,000 and the London Training Centre £22,000. The financial circumstances of these companies, so far as the evidence reveals, do not permit the making of such loans. Therefore, the suggested sources of these payments into the defendant's bank accounts are questionable. Where did the money come from? A further question is this: why did all these people lend the defendant money? A donation to a political cause is one thing, but a loan implies an expectation of repayment. Why did anyone think that the defendant would be able to repay £749,500 in loans? According to him, he has a 26% share in one property in London and £12,659.62 in the Bank. It is reasonable to infer that some of these lenders must have a different view of the creditworthiness of the defendant than this. How has this come about?

22. There was controversy during the hearing before me on 3rd August about Mr. Hoar's description of this evidence as showing "money laundering". This was, in my judgment, an unnecessarily inflammatory expression. Mr. Hoar made it immediately clear that he did not mean that any of this money was the proceeds of crime. To my mind that makes the use of the term inapt. What he actually meant was that this evidence casts grave doubt on the suggested source of the sum of £749,500. If it was not loans from the 52 named people or companies was it actually the defendant's money? If so, was the arrangement designed to conceal this fact so that his true wealth remained hidden from the claimant?

23. Payments to K&L Gates including the £8,000 paid directly by Rafia Munni on 17th July 2014 up to and including 20th May 2015 amount to £624,223. This is the total of all payments identified by the defendant to that firm. If he paid any sums to them by cheque he has not identified those payments and so they are not included. If any third parties paid them directly then he has failed to disclose that fact contrary to the terms of the interim order I made in July. On this basis it is reasonable to observe that he

appears to have received £125,277 in loans more than he has paid to his solicitors in costs. I do not know why that is so, or where that money is.

24. Finally, for present purposes, the payments out of the Natwest account show what appear to be initial deposits for a Landrover vehicle followed by regular finance monthly payments to a hire purchase company. No vehicle has been disclosed by the defendant among his assets and the payments are such that any such vehicle must have a significant value. No evidence was given by the defendant about this. When the issue was raised at the hearing, Mr. Khan (again speaking on instructions) told me that this car had been sold in June 2015 for £22,500. The proceeds were paid to Mohammed Abdul Munim who is one of the lenders listed in MLR/7. Mr. Munim is said to have lent the defendant £60,000 for his legal costs and I was told that the proceeds of sale of the car were paid in part settlement of that debt.

25. These are Part 8 proceedings and I have not heard oral evidence. The only disclosure relating to these issues which has taken place is that provided by the defendant which I have described above. I am not therefore able to make findings of fact about the matters I address above. What I have to decide is whether, on the evidence, there remains a sufficiently demonstrated risk of dissipation of assets to continue the freezing order and to make any further order for disclosure. That risk was shown in the first place principally by reference to the difference between the defendant's evidence about his property ownership at trial and his present case on that issue. The claimant also relied on the findings of the Commissioner about the truthfulness of his evidence in certain respects. The issue is whether the defendant has produced evidence which is sufficiently cogent to show that the injunction should not continue. For the reasons I have given, I do not regard his evidence in his affidavit of 29th July 2015 as cogent at all. It raises more questions than it answers. I allowed a period of three weeks for the preparation of this evidence and I consider it therefore fair to decline simply to excuse its failings as originating from some benign cause and to give effect to my assessment of it.

26. I was referred to paragraphs 24 to 29 of Ms Turner's third witness statement, in which the defendant's evidence is compared with the documentary evidence exhibited by Helal Rahman which is said to demonstrate that the defendant lied about his dealings with Hardings solicitors and Geoffrey Maxwell. If that is true it may mean that he has an interest in a partnership that was the beneficial owner of shares held by Helal Rahman in the Bangla Town Business Complex Ltd. The claimant says that he has evidence obtained during the election petition that he holds an interest in this partnership that could be worth over £100,000. Although on a reading of the documents there appears to be some force in this submission, I will not rely on it without affording the defendant a fair opportunity to deal with it in these proceedings. The matters I have dealt with above arise from his own evidence and it is fair to approach my decision on the basis of a proper judicial assessment of what he has himself said. The Bangla City allegation does not arise from his evidence before me. That evidence was served in compliance with a disclosure order and not as a means of answering the claimant's case. I do not regard it as necessary to resolve the Banlga City issue to determine the application I have to decide. The same applies to the suggestion that the defendant has interests in a building currently under construction in Bangladesh. If the defendant seeks to vary or discharge the order which I intend to make, he must do so having served evidence dealing with the issues raised in this

judgment and in the claimant's evidence. If that evidence is silent on any material issue it will be fair to treat the allegation as unanswered and to draw an inference.

The present task

27. I have three issues to decide

i) Whether to continue the freezing order and if so for how long.

ii) What, if any, disclosure order to make.

iii) What costs order to make. I shall not deal with costs in this judgment but will hear further submissions after handing it down on 7th August 2015 and give an *ex tempore* decision on costs then.

Principles

28. It is a fundamental principle that a freezing order is not granted for the purpose of providing security for the claim. By procuring an order an applicant is not put in a better position than any other creditor. The mere fact that the defendants creditworthiness is in doubt does not justify the making of an order. In summary, a claimant demonstrates a sufficient risk of dissipation if he shows that (1) there is a real risk that a judgment or award will go unsatisfied, in the sense of a real risk that, unless restrained by injunction, the defendant will dissipate or dispose of his assets other than in the ordinary course of business, or (2) that unless the defendant is restrained, assets are likely to be dealt with in such a way as to make enforcement of any award or judgment more difficult, unless those dealings can be justified for normal and proper business purposes

29. The claimant accepts that he should not seek to enforce the order for costs while there is a prospect that it may be overturned. The judicial review proceedings are not an appeal against the costs order, but may result in it being quashed or varied. That is why he seeks a time limited injunction to last for two years. That two year estimate is rather rough and ready. It is intended to allow for the judicial review application to be fully contested and determined at a hearing. Permission may not be granted in which case two years is an overestimate of the time those proceedings will take. An appeal to the Court of Appeal and Supreme Court may be involved in which case it will be an underestimate.

30. I should attempt in exercising my discretion to manage the case in accordance with the overriding objective which means, in my judgment, avoiding repeated applications in these essentially ancillary proceedings as far as possible.

31. I should not allow these proceedings to provide a forum within which to litigate the pre-trial issues of the charging order proceedings. It was appropriate to make disclosure orders in relation to assets but directions have now been given in those proceedings for disclosure in the usual way. If any party fails to give disclosure then the usual sanctions are available. Unless there is a good reason to do so, it would not be right simply to duplicate those directions and attach a penal notice for non-compliance.

Discussion and decision

32. For reasons which appear above I have concluded on the evidence before me that there is a risk that unless restrained by order of the court the defendant will dissipate his assets and will take steps to frustrate the enforcement of the judgment debt. I therefore propose to continue the freezing order in the same terms as before.

33. I will not grant that order for two years as asked. It seems to me that this is guesswork and that two years is a long time for an order of this kind. The continuation of the order should be further considered when the result of the trial of the charging order proceedings is known. That is fixed for 1st December 2015, with a time estimate of 3 days. It may well result in a reserved judgment and I therefore propose to grant an order to expire at midnight on 31st January 2016. The trial judge can be informed of this time limit and, if the proceedings are not concluded by that time and date for any reason, an application can be made under the liberty to apply provision which will appear in my order.

34. Disclosure order: I now turn to paragraph 6 of the Draft Order prepared by the claimant's advisers. This seeks substantial disclosure, after substantial disclosure orders have already been made. Mr. Hoar accepts, I think, that to a degree the proposed new orders repeat orders made in the interim orders, but he is concerned that those earlier orders need to be "tightened up" in view of the way in which the defendant has complied or purported to comply with them.

35. Paragraph 6.1 contains 9 sub-paragraphs on which I rule as follows:-

    i) This order duplicates the disclosure order already made in the charging order proceedings and as I have said this is not a suitable purpose of injunctive relief. The position in relation to these properties is as set out above. The defendant and his wife seek to prove that his only contribution to their purchase was 26% of the deposit of one of them. That assertion is capable of documentary proof, no doubt, and if they fail to give disclosure then even if their cases are not struck out, they may fail at trial. If that happens, orders for sale will be made and the claimant will be paid. Accordingly, I make no further order for disclosure in respect of these properties.

    ii) The claimant says that the disclosure in relation to the rental income is not satisfactory. He is right. I have referred to MLR/4 above. It constitutes statements of rental income drawn up by Consilium LLP in July 2015. That is not what is required. What is required is the underlying documents which show what the income is, and what has been done with it. They must have been gathered together to enable Consilium LLP to prepare what is, in effect, a summary of them. They will therefore be disclosed. This is because they are not solely relevant to the issue of the shares of the beneficial interest in the properties but also to the issue of what income the defendant has.

    iii) I make these orders for the same reason as I have made (ii) above. The order in relation to bank statements will be subsumed in an order which I will describe when dealing with paragraph 6.2 of the draft order at paragraph 36 below.

iv) I decline to order any further Tax Returns but the interim order already made requires the defendant to use his best endeavours to obtain the ones covered by it which he has not disclosed so far. His solicitors have, I accept, tried and failed to obtain them from HMRC so far. The defendant must continue to use his best endeavours to obtain them and I will include an order in this Order to make that clear. It will be co-extensive with the earlier order in relation to tax returns. I am not persuaded that tax returns going back to 1995 will assist. Otherwise I make the orders contained in paragraph 6.4. If the defendant cannot produce any cheque stubs he must explain why that is in his affidavit and produce such other documentation as will evidence the destination of these payments. If, for example, any money was paid to solicitors for legal costs a letter from them confirming addressed to his solicitors in these proceedings will no doubt be obtainable. My reasoning appears from the concerns I have expressed about his evidence above.

v) Not all of the lenders listed in MLR/7 are members of the defendant's family. I accept that a degree of informality occurs in the Bangladeshi community when money is passed between members of the same family. This extends no doubt to close friends and associates. Transactions often depend on trust. However, it is remarkable that these very large sums of money have apparently been lent by people of modest means. Some of the lenders are businesses which will have to prepare accounts and the same degree of informality will not be possible in those cases. Further, such a degree of informality is simply not possible when dealing with 123 separate payments from 52 sources. There must be a record of who paid what, and when, and on what terms otherwise it would be quite impossible for the defendant to keep track of the state of the various loans. He tells me through counsel that he cannot say who his cheques were made out to during this time, so I doubt if the information in MLR/7 comes purely from his memory. The suggestion made by the claimant is that the sum of £749,500 was not in fact lent to the defendant as is alleged but represents some other source of funding. I consider that there is enough substance in that suggestion to require the defendant to provide disclosure which definitively deals with it. He should therefore produce the relevant bank statements, and loan agreements or other written evidence of the making of loans. As will appear in relation to the draft at 6.2 which I deal with below, the bank statements will be a sub-set of a larger quantity of bank statements which are to be disclosed.

vi) I make the orders at 6.1.6-6.1.7. I refuse the order in 6.1.8. The order will not be to produce registration details or to give the current whereabouts of vehicles. If he has sold them, he will not know where they are nor will he have registration documents. I will deal with moveable chattels at 6.1.9 which includes vehicles and anything else of value.

vii) See above.

viii) See above.

ix) The defendant will be required to produce a list showing what items which may reasonably be valued at £2,000 or more he has owned or in which he has had any beneficial interest since 1st January 2012. If the value has or may have

changed during that period, by depreciation or appreciation, he should list the item concerned at its highest potential value. In all cases he should say what he paid for it and what, if it has been sold or otherwise disposed of, he received for it giving the dates of all relevant transactions and the other parties to them.

36. By paragraph 6.2 the claimant seeks ongoing disclosure of all bank statements as they are received. There is no such order in respect of all bank statements to date. In view of what I have said about the questions concerning his income and expenditure I consider that disclosure of bank statements for the three disclosed bank statements should be given. They plainly exist for the period covered by MLR/6 because they are its source. I consider that they should be disclosed from 1st January 2010. I know that it is alleged that some older bank statements have been disclosed by the defendant's wife in the charging order proceedings, but they are relevant to that action, and I have dealt with the potential duplication above. I therefore order disclosure of bank statements going back to that date and ongoing disclosure in relation to the three disclosed accounts as asked in paragraph 6.2 of the draft. That deals with 6.1.3.1 and 6.1.5.

37. This disclosure can now be given quickly. The need for it has been clear since 7th July 2015 and I have removed the more complex area of disclosure concerning the interests in the three properties which involve quite a degree of work (and which should already have been given in the charging order proceedings). I therefore order that the disclosure and affidavit should be served on the claimant's solicitors by 4.00pm on 14th August 2015. Where any material has been sought by the defendant but not obtained by him using his best endeavours, he should say so and provide the relevant correspondence.

38. I agree to the request to allow drawings of £2,020.81 per month from a nominated bank account provided that all the defendant's income is credited to that bank account.

39. I do not allow the defendant to draw any funds for legal advice and representation. That is because he told me in his witness statement of 9th July 2015 that his costs in the judicial review proceedings would be met by third parties. His solicitors in those proceedings have notice of this order and will not facilitate any breach of it and they are required by money laundering regulations to satisfy themselves of the source of funds they receive. The court can safely rely on them to ensure that the funds they use to progress the judicial review proceedings are genuinely third party monies which do not belong to the defendant. I was told orally on 10th July 2015 by counsel who then appeared that the same applies to his costs of these proceedings. Any application for leave to draw funds for legal representation in these circumstances will have to be supported by cogent and patently complete and candid evidence. In reaching this conclusion, I also have regard to the different and inconsistent explanations contained in MLR/3 of the fate of a bank account which was advertised at a meeting on 30th April 2015 as the place to send donations to a "fighting fund" for the defendant.

40. Both parties will have liberty to apply to vary this order. Any party relying on evidence in support of any such application will serve it on the other party not later

than 7 days before the return date and any evidence in reply will be served not later than 2 days before the return date.

41. When circulating this judgment in draft, I directed the parties to attempt to agree a draft Order reflecting its terms. I also sought typographical and factual corrections and invited the parties to check the arithmetic underlying some of what appears above. It is open to both parties to raise any matters of substance when it is handed down.