THE HIGH COURT

[2023] IEHC 360

Record No. 2022/535 JR

BETWEEN

AMMI BURKE

APPLICANT

AND

ADJUDICATION OFFICER

AND

WORKPLACE RELATIONS COMMISSION

RESPONDENTS

AND

ARTHUR COX LLP

NOTICE PARTY

Judgment of Ms Justice Marguerite Bolger dated the 26th day of June 2023

1. On 4 May 2023, I dismissed the applicant's application for judicial review due to her conduct in court that afternoon, which I found was an abuse of process. In this judgment I set out the reasons for my decision.

The Applicant's Judicial Review Proceedings

2. The applicant was dismissed from her employment with the notice party and brought a claim for unfair dismissal to the Workplace Relations Commission, the second named respondent in these proceedings. Her claim has had a lengthy history including an unsuccessful judicial review of an earlier decision of an adjudication officer. Ultimately, the applicant's claim was heard by an adjudication officer, the first named respondent, over a number of days in March and April 2020. On the second day of hearing on 1 April 2020, the adjudication officer made a decision to (1) refuse the applicant's application for the adjudication officer to issue summons pursuant to s. 8(13) of the Unfair Dismissals Act; and (2) postpone a decision on the applicant's application to the adjudication officer to direct disclosure of emails by the notice party. Thereafter, the adjudication officer sought on six separate occasions to swear in the notice party's final witness but was unable to do so because the applicant and her mother, who had accompanied her and was due to give evidence to the adjudication officer, spoke over him to object to his decisions on the witness summons and the disclosure of emails. The adjudication officer dismissed the claim in accordance with s. 8 of the Unfair Dismissals Act, having warned the Applicant that this would occur if she continued what he described as the "obstruction" of the hearing.

3. The applicant was given leave to apply for all the relief she had sought in her notice of motion as follows;

> *"1. An order of certiorari quashing the decision of the first named respondent (the "Adjudication Officer") to dismiss the Applicant's claim for unfair dismissal, ADJ-00026883 (the "claim");*

2. A declaration by way of judicial review that the Adjudication Officer's ruling that proceedings in the adjudication of unfair dismissal claims at the Workplace Relations Commission ("WRC") are adversarial or essentially adversarial is unfair, incorrect and contrary to law;
3. A declaration by way of judicial review that the Adjudication Officer failed to inquire into the claim within the meaning of Section 8(1)(c)(i) of the Unfair Dismissals Act 1977;
4. A declaration by way of judicial review that the Adjudication Officer's refusal to summon as witnesses two key individuals is unfair, unreasonable and contrary to law;
5. A declaration by way of judicial review that the Adjudication Officer's failure to require the production of certain emails is arbitrary, unfair, unreasonable, irrational and contrary to law;
6.A declaration by way of judicial review that the Adjudication Officer's failure to determine the Applicant's application for the production of certain emails before the commencement of the substantive hearing of the claim is arbitrary, unfair, unreasonable, irrational and contrary to law;
7. A declaration by way of judicial review that the Adjudication Officer's decision to reserve his position in relation to the Applicant's application for the production of certain emails until after the Applicant's evidence is arbitrary, unfair, unreasonable, irrational and contrary to law;
8. A declaration by way of judicial review that the Adjudication Officer's termination of the Applicant's unfair dismissal proceedings is unfair, unlawful and/or ultra vires;
9. A declaration by way of judicial review that the Adjudication Officer's dismissal of the claim is unlawful and/or ultra vires;
10. Liberty to apply.
11. Costs.
12. Such further or other Order as this Honourable Court shall deem meet."

4. In summary, the applicant claimed in the proceedings before this court that the adjudication officer adopted an adversarial or essentially adversarial approach to the adjudication of her claim contrary to law, his refusal to summons the witnesses was unfair and contrary to law, his statutory duty under s. 8 of the Unfair Dismissals Act to *"inquire into the claim"* mandated that he direct the production of the emails and his termination of the proceedings was a breach of his statutory duties and was unlawful. She submitted that neither she nor her mother obstructed the fair and proper hearing of the complaint, and that consideration must be given to the reasons for their questions and interruptions.

5. The matter was listed before me for the hearing of the substantive application for judicial review on 2 May 2023. The applicant had advised the court by correspondence on 28 April that she intended to make an application for my recusal. That application, which was opposed by the respondent and notice party, ran for the full day on 2 May. I refused that application in my decision of 3 May 2023 ([2023] IEHC 225). Immediately upon delivery of that judgment in open court, the applicant challenged my decision and sought to repeat the points she had made in her recusal application of the previous day.

6. Throughout the hearing of the judicial review application, which commenced on 3 May following the delivery of my judgment refusing the application for me to recuse myself, the applicant repeatedly objected to what she described as interruptions from the court. These claimed "interruptions" included queries from the court as to where the applicant was in a document from which she was reading, attempts by the court to sort out pages missing from the book of authorities to which reference was being made and asking the applicant to

ensure that members of her family did not speak on her behalf. The court's efforts to tease out issues raised by the applicant were criticised by her as impeding her in making her case.

7. The applicant made baseless claims during her oral submissions including that the submission of the second respondent was close to misleading the court, that I and opposing counsel were sharing in laughter and that the adjudication officer had followed the directions of Senior Counsel for the notice party to break the law. A litigant's submissions to a court should not be used to make inappropriate allegations. Any forbearance that might ever – and even then only exceptionally – be due to a lay litigant due to their lack of familiarity with court procedures and protocol is not available to a qualified solicitor representing herself who told the court that she takes her role as an officer of the court very seriously.

8. Throughout the hearing the court had to rise due to the applicant speaking loudly over me and counsel, in spite of my frequent requests to her not to do so. The applicant repeatedly sought to relitigate her application for me to recuse myself in spite of a decision on that application having already been made by written judgement delivered in open court. There was a pattern of refusing to accept the court's decisions throughout the hearing.

9. On the morning of 4 May, the applicant sought to make an application pursuant to O. 28, r. 11 (the slip rule), asking the court to amend its judgement on her recusal application. The applicant did not have a copy of the rule to hand into the court and I indicated I would hear the application at 2pm. At 12.22pm the applicant was still making her submissions having gone significantly over her agreed time of three hours and so I acceded to an application made by Senior Counsel for the notice party to move to the respondent's submissions in the limited time remaining to the court and adjourn the slip rule application. I told the applicant that I had another question for her that I would deal with during her reply.

10. When the court returned after lunch that day to continue hearing the respondent's submissions, I was advised that the applicant's slip rule application was not on consent and so I directed that the application should be brought on notice grounded on affidavit as required under Order 28 Rule 11(b)(i). The applicant attempted to pursue the application at that time in spite of my decision to adjourn it. Matters deteriorated to the point that I had to ask counsel for the respondent to continue her submissions over the applicant's attempts to pursue the application that I had adjourned. The applicant did not seem to understand and/or accept the need to abide by decisions of the court and to move on with the hearing. The applicant eventually stopped her speaking out of turn, counsel for the respondent was able to continue with her submissions and the hearing proceeded.

11. During the respondent's submissions, I raised a query about the decision of the Supreme Court in *Walsh v. Minister for Justice, Equality and Law Reform* [2019] IESC 15, [2020] 1 I.R. 488, which had been cited in the adjudication officer's determination and in the written submissions of the notice party and was relied on by counsel for the respondent during their oral submissions. The decision (discussed further below) addresses the conduct required of all court users including their obligation to accept and abide by decisions with which they may not agree. I was going to raise the same query with the applicant during her reply. The decision was not included in the booklet of agreed authorities that had been handed into me. I was already aware that the applicant had a difficulty in securing copies of documents as she did not have ready access to a printer. The applicant had previously cited a decision to me that was not included in the booklet of authorities (described by the applicant as one of two decisions in *Kelly v The Minister for Agriculture*), and she had no copy to furnish to me and similarly did not have a copy of the slip rule to hand in when she

sought to make that application to me. I wanted to ensure that the applicant had the benefit of seeing a full copy of a Supreme Court decision I considered to be important, rather than just the excerpts included in the adjudication officer decision, the notice party's written submissions and the respondent's oral submissions. I therefore arranged to have a copy of the *Walsh* decision made for the applicant as I anticipated she might not have a copy in court. I also arranged to have copies furnished to counsel for the respondent and the notice party on the basis that whatever was done for the applicant should also be done for the other parties.

12. The applicant asked why I was doing this and said it was unusual to furnish copies of case law in the course of the hearing. I explained the circumstances, as set out above and then said that I had to move on with hearing the respondent's submissions. The applicant continued to object and insisted on speaking over me to the point that it was necessary, yet again, for the court to rise. Upon the resumption of the hearing, counsel for the respondent resumed trying to make her submissions but the applicant made this impossible by continuing her objections, loudly repeating the same points she had made previously and on which I had already made a decision. I repeatedly asked her to stop speaking out of turn so that counsel for the respondent could resume her submissions but the applicant continued to shout her objections whilst pounding the lectern, at the same time that counsel for the respondent was trying to be heard. The hearing was descending into chaos due to the applicant's extraordinary behaviour. In the hope that she might stop (as had happened previously when the court rose during the applicant's persistent speaking out of turn), I asked counsel for the respondent to speak over the applicant. In spite of counsel's efforts, continuing with the hearing became impossible as the stenographer could not take an accurate note of what was being said. Once again the court had to rise and when the hearing resumed, the applicant recommenced shouting her same objections over and over from a script.

The Application to Dismiss

13. Counsel for the notice party applied to have the applicant's claim dismissed on grounds of her conduct which he described as a deliberate, conscious obstruction of the administration of justice. Counsel for the respondent supported that application and emphasised litigants' obligations to the court to accept and abide by decisions with which they may profoundly disagree. I invited the applicant to respond to those submissions but she declined to do so and instead resumed her loud objections on which I had already made a decision. I raised the possibility of an adjournment for mention, which was opposed by the respondent and the notice party. I sought to establish the applicant's views on an adjournment but she declined to respond and instead continued to shout her objections to my earlier decision.

14. I told the applicant that her conduct was appalling and that I was horrified that anyone, in particular a qualified solicitor, would conduct themselves in that manner before the court. I told her I was rising for 30 minutes, and on my return I would consider (i) having her removed from court; (ii) finding her guilty of contempt; and/or (iii) dismissing the proceedings. On my return, I invited the applicant to commit to sitting down and staying quiet during the respondent's submissions unless she had an objection to what was being said. I explained to her that if there was any more behaviour from her like what had occurred previously, that I would grant the respondent and notice party's application to dismiss her proceedings. I offered her time to consider that and/or to discuss it with her family members who were assisting her in court. The applicant's response was to resume shouting the same objections on which I had already decided.

15. By then it was clear that the applicant was determined to continue shouting her scripted objections, preventing the respondent and the notice party from being heard and preventing the accurate recording of the hearing. Her conduct was devoid of any attempts at persuasion and appeared to be designed solely to collapse the hearing before the court had heard the remainder of the respondent's submissions, any of the notice party's submissions or the applicant's reply. I do not believe there is any other objective explanation for the applicant's conduct or what she could have thought she could secure from it.

16. I considered the additional or alternative steps of removing the applicant from court, finding her to be in contempt, or adjourning the proceedings for mention, but I had no basis on which to expect that any of those options would have allowed the hearing to continue with due regard to the rights of all court users. I therefore proceeded to hear the respondent and notice party's application to dismiss the proceedings in the exercise of the court's inherent jurisdiction to prevent an abuse of process.

The Court's Jurisdiction to Dismiss

17. The Supreme Court in *Mavior v. Zerko Ltd* [2013] IESC 15, [2013] 3 I.R. 268 said that the court's inherent jurisdiction stems from *"the nature of the court's judicial function or the court's constitutional role in the administration of justice"* (at 276). The Supreme Court cited the decision of Murray J. (as he then was) in *McG. v. D.W. (No. 2) (Joinder of Attorney General)* [2000] 4 I.R. 1, pp. 26 to 27:-

> *"The concept of inherent jurisdiction necessarily depends on a distinction between jurisdiction that is explicitly attributed to the courts by law and those that a court possess implicitly whether owing to the very nature of its judicial function or its constitutional role in the administration of justice. The interaction between the express jurisdiction of the courts and their inherent jurisdiction will depend in each case according to the scope of the express jurisdiction, whether its source is common law, legislative or constitutional, and the ambit of the inherent jurisdiction which is being invoked. Inherent jurisdiction by its nature only arises in the absence of the express."*

18. The court, as part of its inherent jurisdiction, can dismiss judicial review proceedings. This has been done on grounds of delay, as in the case of *De Roiste v. Minister for Defence* [2001] IESC 4, [2001] 1 I.R. 190, where it was held by Keane C.J. at 196:- "*The courts have an inherent jurisdiction to dismiss proceedings where the party instituting them has been guilty of inordinate and inexcusable delay*." It has also occurred where the court has found an abuse of process had occurred.

19. The High Court has previously invoked its inherent jurisdiction to dismiss judicial review proceedings albeit not in the precise circumstances that came before this Court, which is unsurprising given the extraordinarily unusual and unprecedented nature of the applicant's conduct. An application for judicial review can be dismissed if an applicant fails in their duty to make full disclosure of the facts during their ex parte application for leave (*G.M. v I.M.* [2023] IEHC 95) or if they raise an issue that could have been addressed in other proceedings (*AA v. Medical Council* [2003] IESC 70, [2003] 4 I.R. 302). In *The State (Abenglen Properties Ltd) v. Dublin Corporation* [1984] I.R. 381 the Supreme Court dismissed claims, including for *certiorari,* and confirmed that a court must have regard to an applicant's conduct, and retains the discretion to refuse an application if an applicant's conduct has been such to disentitle them to relief.

20. More recently, *Morgan v. Labour Court and Ors.* [2022] IEHC 361 concerned a long history of claims the applicant brought against the second respondent arising from the termination of her employment and various issues she claimed to have had with her pension. Ferriter J. had little difficulty in finding that the High Court proceedings were an abuse of process and ordered that they be struck out *"pursuant to the Court's inherent jurisdiction to prevent prosecution of vexatious claims and to prevent abuse of process."* (at para. 117)

21. The court must regulate its own hearing and has inherent power to do so. I am satisfied that the court has the power, pursuant to its inherent jurisdiction, to dismiss judicial review proceedings including a claim for certiorari, on grounds of an applicant's conduct.

The Right to a Fair Hearing and Consequent Obligations

22. A replica of the Harp, the emblem of the State, is positioned above the judge in every courtroom in the country in the line of sight of every court user, reflecting the constitutional basis on which citizens of this Republic come before their courts to assert their rights. As part of their constitutional right to litigate, every litigant coming before this Court is entitled to fair procedures, which includes a right to be heard if they so wish. The nature of these rights is well explained by Gannon J. in his oft-cited *dicta* in *State (Healy) v. Donoghue* [1976] I.R. 325 at 335;

> *"Among the natural rights of an individual whose conduct is impugned and whose freedom is put in jeopardy are the rights to be adequately informed of the nature and substance of the accusation, to have the matter tried in his presence by an impartial and independent court or arbitrator, to hear and test by examination the evidence offered by or on behalf of his accuser, to be allowed to give or call evidence in his defence, and to be heard in argument or submission before judgment be given. By mentioning these I am not to be taken as giving a complete summary, or as excluding other rights such as the right to reasonable expedition and the right to have an opportunity for preparation of the defence."*

23. The constitutionally protected rights of the respondent and the notice party to a fair hearing before this Court gives rise to a duty on the part of all court users, including litigants, to respect those rights and not to interfere with them. In practical terms that means that court users must stay quiet during proceedings so that others can be heard, and they must accept decisions made during a hearing. Whether decisions are substantive or more minor, once a decision has been made it must be accepted and the hearing must be allowed to move on, subject to any challenge that may be legitimately made at that point in the proceedings. A decision may or may not be acceptable to a litigant and, even where it is not acceptable to them, and subject to their right to challenge the decision, they may (depending on the circumstances) have to wait until the hearing has been finalised before they can invoke any appeal or challenge allowed to them. Their options to challenge the decision do not include a right to challenge the decision maker after the decision has been made and/or to harangue the decision maker to revisit their decision.

24. All court users must respect the court and allow it to proceed with its business. A person's obligation to respect a court and its important processes go hand in hand with their rights to litigate and their rights to fair procedures. The mutual nature of those rights and obligations was confirmed to be part of the law, insofar as that is necessary and not self-evident, in the decision of the O'Donnell J. (as he then was) in *Walsh v. Minister for Justice, Equality and Law Reform* [2019] IESC 15 [2020] 1 I.R. 488 at paras. 7 and 8 as follows:

"[7] No one, not even a wholly successful party vindicated by the outcome of proceedings, can pretend that going to court is an enjoyable experience. Apart from the stress and anxiety involved in having the merits of a person's actions, conduct and behaviour debated, sometimes challenged, and adjudicated upon, the courtroom also imposes certain requirements of tolerance on all participants which they can find extremely difficult. Judges must listen to arguments and evidence that strain both patience and credulity. Witnesses must submit to cross-examination, and may sometimes hear submissions that reflect upon their credibility, or contrary evidence which they believe to be misguided or even deliberately false. Judges may sometimes be required to give decisions they find uncongenial and contrary to their personal views, and lawyers and litigants must accept and abide by decisions with which they may profoundly disagree. This is not a complete catalogue of all the difficulties encountered in a given day by anyone attending court, but it leads to a recognition that it is central to a court's capacity to administer justice that it should be capable of maintaining order. This in turn allows competing claims — sometimes highly charged, and always of importance to the participants — to be ventilated, fairly and dispassionately considered, and adjudicated upon. As was said long ago, of all the places where law and order must be maintained, the first place is in the courtrooms themselves. The administration of justice demands of parties that they trust this system and accept its outcomes. Parties are required to accept the decision of the court on the case itself, and on intermediate issues, even when they strongly disagree. Most individuals recognise that this is a price that must be paid, because it is an unavoidable component of the administration of justice. That is the idea, and perhaps the ideal, that disputes between parties (and indeed between parties and the State itself) can be submitted to an independent adjudicator where the outcome is to be determined by reason and law alone, rather than the physical or financial strength of the parties, their position, status, or influence, or their popularity or lack thereof in public discourse or on social media. A courtroom should provide an opportunity for any person to have their say on exactly the same terms as every other person coming to court, whatever their position, class, race, religion, sexual orientation, wealth, reputation, or political affiliation. It provides an opportunity, moreover, that any dispute will be determined only on the evidence adduced and argument advanced in that courtroom, and will be resolved by a decision pronounced in public. This ideal is not easily realised, but an essential component in achieving it is that a courtroom is, as it were, a safe space for everyone who comes to it to be heard, in particular perhaps the victimised, the marginalised, and the weak, those who are shy, reticent and often overlooked, and those temporarily or permanently unpopular and to whom no one else is obliged to listen fairly and dispassionately.

[8] The disruption of proceedings, the refusal to accept court rulings, and an insistence on continuing to speak when a matter has been determined by the judge, should not be mischaracterised as speaking truth to power, or merely challenging authority. A judge sitting in a crowded courtroom has little power other than respect for the law itself. The refusal to accept rulings and decisions, the constant interruption of court proceedings, and the making of offensive interjections and comments is at best rude and inconsiderate to all other court users who are obliged to accept the necessity for calm in court proceedings, but more often amounts to simple bullying. When carried out in a concerted manner, it is, and is often intended to be, menacing and intimidatory. These are serious concerns which should not be ignored or lightly dismissed. Disruption of proceedings attacks the very essence of a fair hearing which it is the court's obligation to provide and every litigant's right to obtain."

25. In that case, the plaintiff had attended a Circuit Court hearing in order to assist his sister who was a party to the proceedings. When he was told by the judge that he could not represent her he proceeded to interrupt and disrupt the proceedings. O'Donnell J., in finding that the applicant had engaged in *"utterly unacceptable"* behaviour, stated at para. 38:

> *"Given the applicant's obdurate refusal to accept the judge's rulings, and, indeed, his continued interruptions and insistence on his own views to the point where it was difficult for the judge or anyone else even to speak, let alone carry on the business of the court, it is hard to see how it could be viewed otherwise. If every litigant, or indeed any member of the public present in court, considered they were free to behave in a similar fashion, then it would be impossible for the courts to deal with cases, and to carry out their constitutional function of administering justice."*

26. The applicant's behaviour in this case was undoubtedly comparable to the behaviour that was strongly condemned by the Supreme Court in *Walsh.*

Constitutional Rights of Corporate Bodies

27. Corporate bodies have also been permitted to rely on constitutional rights of fair procedures, see, for example *Manning v. Benson and Hedges Ltd* [2004] IEHC 316, [2004] 3 I.R. 556, where Finlay Geoghegan J. allowed the application of a number of corporate defendants for a dismissal for want of prosecution; and the decision of the Supreme Court in *Ryanair v. Labour Court* [2007] IESC, 6 [2007] 4 I.R. 199, where a company obtained an order of *certiorari* quashing a decision of the Labour Court for failing to follow fair procedures in its decision against it. In *Dellway Investment Ltd and Others v National Asset Management Agency (NAMA) and Others* [2011] IESC 14 [2011] 4 I.R. 1 the Supreme Court required the application of a section of the NAMA Act of 2009 to confirm to constitutional justice as it could affect the rights of the appellants which were bodies corporate. I therefore conclude that a body corporate, such as the respondent and the notice party in these proceedings, have the right to a fair hearing before this Court which includes their right to be heard. That is not an unconditional right, for example it may be limited to a reasonable level of submission without needless repetition given that the court must use its resources prudently, as confirmed by the Supreme Court in *Talbot v. Hermitage Golf Club* [2014] IESC 57. A person's right to be heard may also depend on their conduct.

28. Where a person or a corporate body have rights, in particular a constitutional right, there is an implied duty on the part both of the State and private individuals, to respect those rights and not to interfere with them. In *Education Company of Ireland v. Fitzpatrick (No. 1)* [1961] 1 I.R. 323, Ó Dálaigh J. (as he then was) said *"Liberty to exercise a right, it seems to me, prima facie implies a correlative duty on others to abstain from interfering with the exercise of such right"* (at p. 343). Budd J., in the related decision *Educational Company of Ireland Ltd v. Fitzpatrick (No. 2)* [1961] I.R. 345, said *"obedience to the law is required of every citizen, and it follows that if one citizen has a right under the Constitution there exists a correlative duty on the part of other citizens to respect that right and not to interfere with it"* (at p. 368). That *dicta* of Budd J. was quoted by Walsh J. in *Mescall v. CIE* [1973] I.R. 121 who went on to say:

> *"[I]f a person has suffered damage by virtue of a breach of a constitutional right or the infringement of a constitutional right, that person is entitled to seek redress against the person or persons who have infringed that right."* (at 133)

29. Denham J. in *Re Ward of Court (Withholding Medical Treatment) (No. 2)* [1996] 2 I.R. 79 confirmed that the ward's right to bodily integrity must be recognised by private individuals as well as by the State.

Abuse of Process

30. Rights can be exercised in a way that becomes an abuse of process. In *Crowley v. Ireland* [1980] 1 I.R. 102 O'Higgins C.J. said at 125:

> *"Rights guaranteed by the Constitution must be exercised having regard to the rights of others. It is on this basis that such rights are given by the Constitution. Once it is sought to exercise such rights without regard to the rights of others and without regard to the harm done to others then what is taking place is an abuse and not the exercise of a right given by the Constitution. The abuse of such rights ranks equally with the infringement of the rights of others and should be condemned by the courts in protection of the Constitution."*

31. The possibility of an applicant's conduct being an abuse of process was raised by Clarke J. (as he then was) in *Sister Mary Christian & ors v. Dublin City Council (No. 1)* [2012] IEHC 163, [2012] 2 I.R. 506 at 567:

> *"It is, of course, true that an order of certiorari is, in the terms of the jurisprudence, a discretionary order. I should start by noting that it seems to me that the term "discretion" can perhaps be misleading in this context. It is not that the court can decide simply to decline to make an order. Rather, the term "discretion" is designed to convey that the existence of the set of circumstances necessary to allow the court to reach the conclusion that an order might be made does not, of itself, necessarily give rise to an obligation on the part of the court to make the relevant order. Thus, judicial review orders are in a different category from, for example, claims for damages. In the ordinary way if a party establishes the necessary acts of negligence, causation and loss then that party is entitled, as of right, to an award in damages in the absence of some legally recognised defence such as, for example, the claim being barred under the Statute of Limitations or the existence of an estoppel.*
>
> *On the other hand, the conditions necessary to permit an order of certiorari to be made do not carry with them the same necessary entitlement to the order. What is conveyed by the term "discretion" is that the order is non-automatic in that sense. However, the circumstances which allow the court not to make an order which would otherwise be justified must be such as to derive from an important constitutional or legal value of sufficient weight to warrant not making an order otherwise justified.*
>
> *There may, for example, be aspects of the conduct of the applicant concerned which would render it an abuse of process to permit the order to be made"*

32. Where the court finds an applicant's conduct to have been an abuse of process, the court has jurisdiction to dismiss their proceedings pursuant to its inherent jurisdiction. Whether their conduct is an abuse of process will depend on the severity of the conduct and may depend on the context in which it occurred, bearing in mind that tensions and emotions can run high during a hearing.

33. The applicant's behaviour before this court on the afternoon of 4 May in repeatedly engaging in a loud, scripted mantra of objections to a decision that had already been made,

made it impossible for the court to continue the hearing and could not be objectively viewed as having had any other purpose or outcome. That has to be the very definition of an abuse of the court's process. There was no justification for the applicant's behaviour, nor could there be. It occurred against the backdrop of an escalating pattern of her refusals to accept decisions previously made by the Court, but it is not necessary for the court to find whether the applicant's earlier behaviour was an abuse of process in circumstances where her conduct on the afternoon of 4 May undoubtedly was.

Conclusion

34. The applicant engaged in a blatant abuse of the court process which rendered it impossible to continue with the hearing of her case, in spite of the court having afforded the applicant time to reflect on her behaviour and the consequences of it. As a result, the court was compelled to grant the respondent's and notice party's applications to dismiss her claim in the exercise of its inherent jurisdiction. There was no alternative option identified to or available to the court that would have enabled the hearing to continue.

Final Orders

35. The notice party has asked that costs be awarded against the applicant on a solicitor client basis. O. 99, r. 10(3) allows the court, in any case in which it thinks fit to do so, to order or direct that the costs shall be adjudicated on a legal practitioner and client basis. I will allow the respondent and notice party 10 days to make written submissions on the issue of costs and the final orders, if any, that should be made and the applicant a further 10 days thereafter to make her written submissions on those points. I will put the matter in before me at 10.30am on 21st July. All submissions should be lodged with the court no later than 48 hours before the matter is back in before me.

Appearances

The applicant appeared for herself.

Counsel for the second named respondent: Catherine Donnelly SC, Sharon Dillon Lyons BL.

Counsel for the notice party: Peter Ward SC, Mairead McKenna SC.