

Mrs Justice Cockerill
(14:37pm)

Monday, 13 June 2022

Ruling by MRS JUSTICE COCKERILL

1. In relation to the costs of application, I am going to say that is costs in the case, because although one would normally give costs against a party seeking an adjournment, there has been success on that application, which was contested, and as I have said, at the end of the day, there were two bases for the application to adjourn, and I have found that effectively the result was inevitable, by a slim margin, but inevitable once you have those two factors in place. So I am going to say the costs of the application are costs in the case.
2. So far as wasted costs is concerned, that is a different matter. There are effectively two reasons why this matter two real reasons why this matter is being adjourned and they are both matters which have cause the defendants to have to come to court.
3. The first and the biggest point on which reliance was placed was the need to re-amend for the Indian law evidence. On any analysis that is an application which could and should have been made earlier at a point where there would have been no question of adjournment. So a large proportion of the reason for the adjournment comes along because of that, and the defendants must bear the result of that.
4. Similarly, though without fault on their part, it is their expert who has been unavailable and for whatever reason, in circumstances where there was already some difficulty and a tight timetable, it does not look like huge efforts were made it see what an alternative was. The only slight amelioration I am prepared to grant is taking it down from indemnity costs to costs on a standard basis is because I do see some force in the submission that we might just about have been able to manage things better if there had been better co-operation but it has to be costs wasted paid by the defendants to the claimants. And it is standard basis and an application for interim payment to be

listed for a short hearing before me in the next couple of weeks if you cannot agree a sensible payment on account.

5. You all know what kind of figures judges order for payment on account so I really hope I do not have to see you on it.