

IN THE SUPREME COURT OF THE NORTHWEST TERRITORIES

BETWEEN:

**LI ZHANG**

Petitioner

- and -

**WING FUK PUD  
(A.K.A. JOHN PUD)**

Respondent

**MEMORANDUM OF JUDGMENT**

[1] This Memorandum addresses the Request for Divorce (Without Oral Hearing) submitted on behalf of the petitioner on March 18, 1999. The Divorce Judgment is granted and has been signed. The relief requested in the draft Corollary Relief Order is deferred for the reasons herein.

[2] The petitioner seeks the following relief (as set forth in the draft Corollary Relief Order):

1. The family property of the parties be and is hereby divided, with each party retaining the family property in his or her possession on the date of filing of the within Petition for Divorce. More particularly, with the Petitioner retaining possession of the property outlined in her Statement of Property filed August 4, 1998.
2. The Respondent shall be permanently restrained from contacting, annoying or harassing the Petitioner.

In addition, the petitioner seeks costs.

[3] The relief requested is not remarkable. The problem, one that has been highlighted in several cases, is that this relief is not “corollary relief” under the *Divorce Act*. A “corollary relief order” can only relate to claims respecting custody or support. The Divorce Rules allow matrimonial property claims to be joined to a petition for divorce as a matter of procedural convenience. A judgment obtained on such a claim is still a separate judgment distinct from a “divorce judgment” or a “corollary relief order”.

See *Currie v. Currie* (S.C. No.6101-02281; January 3, 1995); *Chinna v. Chinna* (S.C. No.6101-02411; February 20, 1995); *Bugg v. Pretty* (S.C.No. 6101-02730; February 25, 1997); and *McKay-Lafferty v. Lafferty* (S.C.No. 6101-02779; December 19, 1997).

[4] There is no evidence, other than the Statement of Property filed seven months ago, to support the matrimonial property claim. As with any other default proceeding, and since a property claim is not a liquidated demand, there must be evidence to justify the relief claimed. There may not be a need for much evidence, but there is a need for some (especially where as here there are no particulars of the property claim in the divorce petition).

[5] Arguably a claim for a restraining order can be included in a corollary relief order because of the inherent jurisdiction of a superior court. I make no decision on that. But, again, there must be some evidence to support the claim. In this case the only support is the reference to a “Recognizance to Keep the Peace”, entered into by the respondent in 1997, in the divorce petition. But, pleadings are not evidence.

[6] To obtain judgment for these two items of relief, there should be affidavit evidence setting forth the particulars justifying the claims. Therefore, these matters are deferred. The petitioner is at liberty to resubmit a draft judgment for these claims with appropriate supporting material.

Dated at Yellowknife, NT, this 19th day of March 1999.

J.Z. Vertes,  
J.S.C.

To: Tracey M. Foster,  
Counsel for the Petitioner

No one for the Respondent

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