

Date: 19980615

Docket: CA 142159

NOVA SCOTIA COURT OF APPEAL

Cite as: Hosain v. Rahman, 1998 NSCA 102

**Roscoe, Pugsley and Bateman, JJ.A.**

**BETWEEN:**

KHADIM HOSAIN and KHALIDA HOSAIN

Appellants

**- and -**

ABDUL RAHMAN and SHAKILA RAHMAN

Respondents

Jill Graham-Scanlan  
for the Appellants

Elizabeth Van den Eynden  
for the Respondents

Appeal Heard:  
June 15, 1998

Judgment Delivered:  
June 15, 1998

**THE COURT:**

Leave to appeal is granted, but the appeal is dismissed with costs awarded in the amount of \$700.00 including disbursements as per oral reasons for judgment of Roscoe, J.A.; Pugsley and Bateman, JJ.A., concurring.

The reasons for judgment of the Court were delivered orally by:

**ROSCOE, J.A.:**

This is an appeal from an interlocutory order denying the appellants costs after a successful Chambers application. Justice Hood granted the application of the appellants and found the respondents in contempt of court for failing to comply with the terms of an arbitrator's award which had been made an order of the court. The effective date of the contempt order was delayed in order to give the respondents ample time to comply with the terms of the order which Justice Hood found was ambiguous. On the matter of costs the learned Chambers judge said:

...I am going to exercise my discretion to award no costs. I hope we have achieved a result here which will end this matter, and I think an award of costs might have a counterproductive effect, and so I decline to award costs, I guess, with some misgivings.

Costs are discretionary, and the Chambers judge exercised no wrong principle in declining to award them. We would therefore not interfere with the decision.

Leave to appeal is granted, but the appeal is dismissed with costs in the amount of \$700.00 including disbursements.

Roscoe, J.A.

Concurred in:

Pugsley, J.A.

Bateman, J.A.