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**FCMC 4670 / 2019**  
**(formerly FCMC No.2172 /2018)**  
**[2019] HKFC 238**

**IN THE DISTRICT COURT OF THE**  
**HONG KONG SPECIAL ADMINISTRATIVE REGION**  
**MATRIMONIAL CAUSES NO. 4670 OF 2019**  
**(formerly FCMC No.2172 of 2018)**

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BETWEEN

LPC

Petitioner

and

CKHA

Respondent

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Coram: His Honour Judge G. Own in Chambers (Not Open to Public)

Date of Petitioner's submission: 16 May 2019

Date of Respondent's submission: 30 May 2019

Date of Decision: 11 September 2019

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**DECISION**  
**(Non-Disclosure of Address)**

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**Introduction**

1. The Petitioner and the Respondent are respectively the Wife and the Husband in these proceedings. For the sake of convenience, I will refer to them as “W” and “H” in this Decision.

2. It is unfortunate to see that the parties are so acrimonious against each other that almost every aspect in these proceedings have to be bitterly fought. The parties’ divorce proceedings started as an “Unreasonable Behaviour” petition with Answer and Cross Petition filed under FCMC No.2172 of 2018. It is only until lately that the parties, apparently having received proper legal advice, are now able to agree to dissolve their marriage by the use of a fresh Petition based on “One-Year Separation with Consent”) in these proceedings. This is the only consensus on substantive issues between the parties so far and no more. At the date of this Decision, Decree Nisi has not yet been granted.

3. Both H and W are in their late forties. They married in 2000 in Hong Kong and are both devoted Christians. There are 7 children born out of the marriage. Parties separated in July 2017 when H moved out of the matrimonial home. Sadly, not only the parents separated, the siblings have also been drifted apart with the 3 elder children (1<sup>st</sup>, 2<sup>nd</sup> and 3<sup>rd</sup>) stayed with the father H whilst the 4 younger children (4<sup>th</sup>, 5<sup>th</sup>, 6<sup>th</sup> and 7<sup>th</sup>) stayed with the mother W. The eldest child was born in 2001 (just reached 18) with the youngest child born in 2012 (aged 7).

**H’s application for non-disclosure of address**

4. The present application relates H's non-disclosure of his residential address. H's residential address has been an issue since the last proceedings under FCMC No.2172 of 2018 which has been stayed by consent and followed by the filing of a Petition on "One-Year Separation with Consent" in these proceedings in April 2019. Thus, the documents filed by the parties and the hearings referred to in this Decision are under FCMC No.2172 of 2018.

5. It is pertinent to set out the chronology of events that had happened and some background information insofar as they are relevant to the present application.

6. On 14 May 2018, H through his solicitors wrote to the Court for leave not to disclose his residential address in the last proceedings. On 25 May 2018, Deputy Judge Rita So directed H to make application by way of affirmation and also reminded him about the need to comply with those standard practice as to the filing of Undertaking.

7. However, without an Order being obtained, H started not to provide his residential address in the last proceedings which had led to the complaint by W's lawyers. At the first hearing of the 1<sup>st</sup> Appointment on 14 May 2018 and, having heard submissions, H was ordered by this Court :

- (a) to file a Statement As to Arrangement for Children by 4:00 p.m. on that day; and
- (b) to provide by letter by 4 p.m. on that day the residential address of himself and the 3 elder children of the family.

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This Court also directed that there be a penal notice endorsed on the Order.

8. Although H filed the Statement As to Arrangement for Children on 14 May 2018, he did not provide the address of the 3 elder children under the heading “*Residence*” in the prescribed form. H only said the children “*are residing with the Respondent in Hong Kong.*” Moreover, this Court was later informed that H’s Statement As to Arrangement for Children was only served on W’s solicitors on 15 June 2018.

9. On 7 June 2018, H filed his 1<sup>st</sup> Affidavit seeking leave for not disclosing his residential address. However, in this 1<sup>st</sup> Affidavit, H provided an address at Jordan Road, Kowloon. H also filed his Undertaking to give his updated address with his then current address contained in a sealed envelope.

10. On 13 June 2018, His Honour Judge Ivan Wong directed H to clarify whether the address at Jordan Road, Kowloon provided in his 1<sup>st</sup> Affidavit was the address which H sought not to disclose. There was no follow up of such query.

11. On 24 September 2018, H filed his 2<sup>nd</sup> Affidavit marked at the top of it as an “Ex-Parte Application”, again seeking leave not to disclose his residential address.

12. On 5 October 2018, Deputy Judge Doris To granted leave to H not to disclose his residential address upon usual Undertakings be given and subject to standard conditions.

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13. On 15 November 2018, Deputy Judge Doris To directed that the Order dated 5 October 2018 shall only take effect until 17 December 2018. The learned deputy judge further directed that the issue on non-disclosure of residential address be adjourned to 17 December 2018 for further directions or for disposal.

14. On 17 December 2018, this Court fixed the 1<sup>st</sup> Appointment hearing to 2 May 2019 and, whilst granting other usual directions, extended the Order of Deputy Judge Doris To as to H's non-disclosure of his residential address until further Order.

15. At the hearing on 2 May 2019, insofar as H's non-disclosure of residential address is concerned, this Court directed W to file and serve her skeleton argument/submission on or before 16 May 2019, H to file and serve his skeleton argument/submission in reply on or before 30 May 2019. The Order of Deputy Judge Doris To was further extended until further Order.

16. From reading respective Counsels' written submissions, there is a primary issue as to whether H's non-disclosure of his residential address to be determined by this Court at present takes the form of an ex-parte application in the same way as it was so originated before Deputy Judge Doris To in FCMC No.2172 of 2018 or is it a stand-alone inter-parte application so that the strict legal requirements of full and frank disclosure of all material facts applicable to all kinds of ex-parte applications ceases to apply.

**H's reasons for non-disclosure of residential address**

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17. H filed his 1<sup>st</sup> Affidavit on 7 June 2018. As said, this 1<sup>st</sup> Affidavit was questioned by His Honour Judge Ivan Wong and no Order was granted by the Court in respect of this 1<sup>st</sup> Affidavit.

18. H filed his 2<sup>nd</sup> Affidavit on 24 September 2018. H attempted to elaborate those matters already set out in his 1<sup>st</sup> Affidavit which were grouped under different headings. In a gist, what H was saying was that it was likely that W would cause further harassment and/or further harm to him and the 3 elder children if his residential address was disclosed. Nonetheless, H disclosed an address in Jordan Road, Kowloon in his 1<sup>st</sup> Affidavit but he only used the expression “*an address in Hong Kong*” in this 2<sup>nd</sup> Affidavit.

19. The different headings set out in the 1<sup>st</sup> and 2<sup>nd</sup> Affidavits are :-

- Carpark;
- Disposal of unused properties;
- Complaints to the Privacy Commissioner;
- Threat to report to the Dental Council;
- Other disturbances;
- Conflicts with the 1<sup>st</sup> and 2<sup>nd</sup> children;
- The children’s Psychiatric Reports.

20. In H’s 3<sup>rd</sup> Affidavit which was filed on 12 December 2018 in reply to W’s Affidavit dated 5 December 2018, H again used the Jordan Road, Kowloon address same as what he had put down in his 1<sup>st</sup> Affidavit.

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**W's grounds of opposition**

21. W's opposition is that as one of the parent and legal guardian of all the children, she has the right to know the whereabouts of the 3 elder children same as H's rights to know the whereabouts of the other 4 children. Moreover, H had once travelled to Uganda and once to Taiwan when he had left behind the 3 elder children to be taken care of by H's mother, domestic helper and a common friend Mr. Fan. This was undesirable. W as the mother would be the only person suitable to make decisions and resolve problems for the 3 elder children if circumstances so require.

22. Further, W was of the view that there was material non-disclosure on the part of H when bringing his application as an ex-parte application by way of his 2<sup>nd</sup> Affidavit back in September 2018 before Deputy Judge Doris To in FCMC No.2172 of 2018. In any event, H's present application for leave to continue with not disclosing his residential address in these proceedings is unmeritorious.

**The Court's Views**

23. I will first deal with the primary issue of the nature of H's present application.

24. As can be seen from the above chronology, this Court only extended the Order of Deputy Judge Doris To which was granted upon an ex-parte application brought upon by H. On 17 December 2018 and 2 May 2019 the said Order was extended twice until further Order. Apart from

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extending the validity of the said Order, there was no other direction by this Court that the topic of H's non-disclosure of his residential address would have to be substantively argued or any inter-parte summons would have to be issued for such purpose. This is evident from the fact that there was even no direction granted by this Court for the filing of affirmations by the parties, as normally would have been the case had there been an inter-parte application for substantive argument.

25. However, it turned out that the parties themselves with legal assistance saw fit to file affirmations even though this Court only directed sequential exchange of skeleton submissions for Court's consideration. In my view, this does not and had not thereby transformed the dispute or topic in question to become an inter-parte application per se. The dispute or topic in question at present is still whether the ex-parte Order granted by Deputy Judge Doris To in FCMC No.2172 of 2018 should continue further in these proceedings or should it be immediately set aside. Having said, I do not agree with H's Counsel's submissions that the dispute or topic in question is far from an ex parte application.

26. The fact that W had had knowledge since May 2018 that H's non-disclosure of residential address was a live issue and had all along been objected to by her could not alter the fact that the Order for non-disclosure of address, even though extended twice, originated from an ex-parte application. Further, the learned deputy judge re-visited the terms of her ex-parte Order and granted consequential directions on 15 November 2018, in my view, also would not transform the matter or topic in question into an inter-parte application.



27. Given my decision that the dispute or topic in question for determination is whether the ex-parte Order for non-disclosure of H's residential address originated from FCMC No.2172 of 2018 be further extended or continued in these proceedings, I would have to consider whether H had fulfilled the strict legal requirements for full and frank disclosure of all material facts pertinent to bringing ex-parte applications before the Court or for seeking the extension or continuation of the Orders granted thereupon. I am minded to also say that it is trite that in all litigation process, be it civil or family proceedings, disclosure is a continuing exercise and must also be full and frank to the fullest extent, no matter whether it is between parties or to the Court.

28. W's 1<sup>st</sup> contention is that H did not disclose the fact of his non-compliance of this Court's Order dated 14 May 2018 in his 2<sup>nd</sup> Affidavit filed on 24 September 2018. The 2<sup>nd</sup> contention is that undisputedly H had been out of Hong Kong to Uganda between 28 July and 10 August 2018 and to Taiwan in October 2018 of which H had failed to say so in his 2<sup>nd</sup> Affidavit. The 3<sup>rd</sup> contention is that H failed to produce the letter from the Multi-Disciplinary Case Conference ("MDCC") dated 24 July 2018 sent to H and W with the conclusion that the alleged child abuse by H against W over the 1<sup>st</sup> child was not substantiated.

29. H in his 3<sup>rd</sup> Affidavit filed on 12 December 2018 made his reply to W's contentions.

W's 1<sup>st</sup> contention

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30. At paragraph 3 of H’s 2<sup>nd</sup> Affidavit, he only made reference to the Order of this Court dated 14 May 2018 without stating that he was required thereunder to produce his residential address by 4 p.m. on that day (*my emphasis*). At paragraph 7 of the same Affidavit, H then said his residential address had been provided at the hearing on 30 July 2018 without saying that he was late in doing so (*my emphasis*).

31. First of all, it is noted that on 14 May 2018, no leave has been obtained by H not to disclose his residential address where he was living with the 3 elder children. This is the reason why this Court saw fit to impose the time by 4 p.m. on that day (*my emphasis*) for H to disclose his residential address.

32. Given careful consideration to what H had said in paragraphs 3 and 7 of his 2<sup>nd</sup> Affidavit, I am satisfied that H had failed in his disclosure in his 2<sup>nd</sup> Affidavit of material facts, namely, the time and date ordered by this Court for disclosure of his residential address when bringing his ex-parte application before Deputy Judge Doris To. I am minded to say the importance of time, not just the date, stipulated for compliance of Court orders must not be under estimated or lightly taken. Given that H was legally represented at the hearing on 14 May 2018, I believe his legal advisers must have properly advised him of the importance and need to disclose his residential address by 4 p.m. on 14 May 2018 and not anytime later as he chooses.

33. H in his 3<sup>rd</sup> Affidavit at paragraphs 38 to 41 tried to “conceal” his breach of this Court’s Order dated 14 May 2018 by saying that

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clarification had been sought from this Court at the hearing on 30 July 2018 and then his solicitors provided to W his old address there and then. H further contended that all the incidents which had happened before 30 July 2018 were completely irrelevant to the Order for non-disclosure.

34. In my decision, it is completely in the opposite. Not only had H failed in his full and frank disclosure of the material facts as to the time of 4 p.m. stipulated by this Court and his unexplained failure to comply by 4 p.m. on 14 May 2018, H was astute enough to put up the excuse that clarification was required from this Court on 30 July 2018 before compliance could be done. This is unacceptable and indeed unscrupulous. Had H required clarification as to whether disclosure of his then residential address need to be provided only to the Court or need to be provided to W and the Court, I failed to see why H in his Statement As to Arrangement for Children which was filed on 14 May 2019 also did not provide the address of the 3 elder children. The omission of the address in such Statement, in my view, is intentional and not accidental since this is a prescribed form where address must (*my emphasis*) be provided unless otherwise ordered by the Court. Furthermore, I failed to see why H's lawyers did not seek clarification soon after 14 May 2018 and had to wait until the hearing on 30 July 2018.

35. For these reasons, I accept W's 1<sup>st</sup> contention that H had failed in his full and frank disclosure of material facts to Deputy Judge Doris To when he applied for the ex-parte Order dated 5 October 2018.

W's 2<sup>nd</sup> contention

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36. First, there was no reference anywhere in H's 2<sup>nd</sup> Affidavit of these 2 trips save and except a brief reference at paragraph 7 saying that his lawyers were able to obtain leave of this Court to excuse his attendance for the hearing on 30 July 2018, on which date undisputedly he was in Uganda.

37. H frankly admitted the 2 trips to Uganda and Taiwan suggested by W. At paragraphs 25 and 26 of H's 3<sup>rd</sup> Affidavit, H denied W had not been informed or not knowing about his trips. However, H failed to address the crucial issue of his non-disclosure of such trips in his 2<sup>nd</sup> Affidavit before Deputy Judge Doris To, which is again back to the basic question and strict legal requirements of full and frank disclosure of all material facts for bringing his ex-parte application.

38. In my view, as one of the parents having care and control of the 3 elder children, even though they are of the age around 17, 15 and 13, it is imperative to inform the Court of any period of absence when care and control had to be undertaken by others. This is particularly important when questions of custody, care and control have yet to be determined. I firmly believe H's legal advisers would have properly advised H of the need to disclose such material facts even though they are past historic event when he filed his 2<sup>nd</sup> Affidavit in September 2018 by way of an ex-parte application for non-disclosure of his residential address.

39. As W had rightly submitted, whilst H was not in Hong Kong, W as the mother and other parent of the 3 elder children, would be the only and suitable person to make parental decisions for the 3 elder children if circumstances so arise. There could be no substitute for the mother W by

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the paternal grandmother, the domestic helper or the friend Mr. Fan unless the Court otherwise directs. Take a classic example that if any one of the 3 elder children requires emergency surgery out of accident during H's absence, and which call for urgent parental consent, how could the mother W not even knowing the whereabouts of the children be expected to give parental consent ?

40. Thus, I agree with W that she has a legitimate right and genuine need of knowing the whereabouts of the 3 elder children. I believe that had H disclosed his 2 trips to Deputy Judge Doris To in his 2<sup>nd</sup> Affidavit, it might attract different consideration by the learned deputy judge or at least terms might need to be imposed to cater for H's absence from Hong Kong before granting leave for non-disclosure of H's residential address which tied up with the whereabouts of the 3 elder children.

41. I also agree with W on her 2<sup>nd</sup> contention.

W's 3<sup>rd</sup> contention

42. H in his 3<sup>rd</sup> Affidavit at paragraph 18 produced a letter from the MDCC dated 10 December 2018 addressed to H's lawyers Messrs. Tso Au Yim & Yeung. The contents of this letter are as follows :-

“ **Re : (Name of child)** ”

We refer to your letter of November 20, 2018 and our letter of December 4, 2018.

I write to inform you that, our letter of October 26, 2017 is the letter in reply to all of your enquiries. Our letter of October 26, 2017 is enclosed

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herewith.

Please discard my letter of July 24, 2018.

Thank you for your attention.

Yours faithfully,

(Name of signatory)”

43. It is H’s contention that W’s submission of no child abuse was found by the MDCC as stated in their letter dated 24 July 2018 was overridden by the MDCC letter dated 10 December 2018, where it was attached with another letter from them to H and W dated 26 October 2017. Reason being that in the letter dated 10 December 2018, MDCC specifically said the 24 July 2018 letter be discarded.

44. I have reservations on the contents of the MDCC letter dated 10 December 2018. First, it was in reply to H’s lawyers letter dated 20 November 2018 and in furtherance to MDCC’s own letter dated 4 December 2018. None of these 2 letters were produced by H to show the complete chain of enquiries and reply. It does call for explanation from the author of the letter as to why the subsequent letter of 24 July 2018 would have to be discarded and that the earlier letter of 26 October 2017 would have to be taken as their answer. Secondly, I find it extremely odd for the earlier letter of 26 October 2017 (*my emphasis*) to take precedence over or to override the subsequent letter of 24 July 2018 (*my emphasis*). In the absence of the complete chain of enquiries and reply (*which H’s lawyers failed to disclose*), this is illogical in terms of time and want of any sense. Thirdly, H still owes an explanation to this Court as to why he did not disclose the letter

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dated 26 October 2017 when he filed his 2<sup>nd</sup> Affidavit before Deputy Judge Doris To.

45. Upon consideration of the contents of the 26 October 2017 letter (attached to the MDCC letter dated 10 December 2018) and compared it with the contents of the 24 July 2018 letter, the 2017 letter only proposed some benefits plans (福利計劃) whereas the 2018 letter, apart from proposing benefits plans, also positively concluded that no child abuse was found (.....有關事件界定為不屬虐待兒童個案.....). In the absence of further evidence from the author of these 2 letters, I am minded to take the letter of 24 July 2018 and its conclusion to be the truth.

46. Having said, I agree with W’s 3<sup>rd</sup> contention against H’s failure to disclose the 24 July 2018 letter, which contains material facts and information, when seeking the ex-parte Order before Deputy Judge Doris To in September 2018.

47. For the above reasons, I find that H fall short of full and frank disclosure in his ex-parte application for the Order for non-disclosure of his residential address. Thus, the Order for non-disclosure dated 5 October 2018 even though it had been subsequently extended twice, must now be set aside.

**H’s different heads of complaint**

48. I do not intend to go through each and every heads of complaint made by H in any details save and except I will only refer to those

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complaints which are of relevance to the present application and which are worth to consider.

49. Given careful consideration to H’s affirmation evidence on each of the heads of complaint, I find none of the matters stated under the heads of Carpark and Disposal of unused properties could support H’s case of non-disclosure of his residential address. As to the heads of Complaints to the Privacy Commissioner and Threat to report to the Dental Council, these could hardly be grounds to justify non-disclosure of his residential address. These heads relate to the legitimate rights of W and indeed all citizens to make complaints. I will now deal with the remaining 3 heads of complaints separately.

*Other Disturbances*

50. H in his 2<sup>nd</sup> and 3<sup>rd</sup> Affidavit referred to W had on various occasions threatened to stay in his clinic without leaving in order to force communication with him. There are also allegations of other nuisances or disturbances such as sending lots of registered mails, posting false allegations in her face book account with defamatory words against H and his clinical staffs, so on and so forth.

51. In my decision, all those alleged disturbances stated by H even if sufficiently proved by evidence, might constitute grounds for seeking injunctive and/or non-molestation reliefs rather than reasons for non-disclosure of his residential address. I noted that H’s Counsel cited some cases and authorities where leave was granted by the Court for not having



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to disclose residential address if there are incidents of past harassment and/or violent behaviour of a spouse. I will deal with those cases shortly in the following paragraphs.

**Conflicts with the 1<sup>st</sup> and 2<sup>nd</sup> children**

52. On the assumption that the alleged conflicts between W and the 1<sup>st</sup> and 2<sup>nd</sup> children have been successfully proved, in my decision, it may not be a conclusive factor for granting leave to H not to disclose his residential address where the 3 elder children also reside.

53. Although police assistance had been sought over those conflicts, there was so far no child related prosecution laid against or conviction made upon W with any sufficient degree of importance which call for suspension or “cut-off” of W’s legitimate right to know the whereabouts of the 3 elder children.

54. Having said, I do not accept such ground of submission by H.

**The children’s Psychiatric Reports**

55. H is relying on expert evidence of psychiatrist Dr. Chan Kwok Tung in his reports dated 12 May 2018 on the 1<sup>st</sup>, 2<sup>nd</sup> and 3<sup>rd</sup> children.

56. It is undisputed that it was H who arranged the medical assessment without the consensus of W or in her presence or any directions from the Court. W opposed to the contents of such medical report as it is

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likely that Dr. Chan was highly influenced by the one-sided narratives given by H when he brought the children for the assessment. This is evident from the following statement which appeared in the report of the 2<sup>nd</sup> Child :

*“as his father was also seeing me for the counselling of his emotional and marital issues, I was told that (the 2<sup>nd</sup> Child”)’s mother had been intimidating not only to her husband, but also her children, .....*”

57. Given careful consideration, I am minded to attach little or even no weight to the children’s psychiatric reports in considering H’s application. I must emphasize that such decision is not because of the competence or expertise of Dr. Chan. It is rather on the procedural irregularity of H producing “one-sided” medical expert evidence without leave or directions from the Court or W’s consent. Given the antagonism between the parties, I am satisfied that there is a real risk that Dr. Chan’s opinion and views might have been based upon or to some extent influenced by H’s “one-sided” information about W in respect of which W should be fully informed and, in appropriate case, given a chance to comment or contest.

58. Hence, the children’s psychiatric reports do not support H’s application.

59. Suffice to say is that the Court’s discretion in this kind of application is wide and unfettered. It is a balancing exercise between the risks and consequences for disclosure of address of one party and the rights of the other party to know the opposite party’s address. Such balancing exercise is also highly fact sensitive, say for instance, in the present case, it is in essence disclosure of the address of the 3 elder children rather than H’s

address. Each case must be scrutinised with care by taking into account of all the surrounding circumstances so as to achieve a fair and just result.

60. Given the fact that H is residing with the 3 elder children of the family, I am minded to say the discretion ought to be exercised in favour of W who has a legitimate right and genuine need to know the whereabouts of the 3 elder children. Had I been wrong in arriving at such decision on such basis, H would also fail in his application based on those heads of complaints purportedly raised as grounds for not disclosing his residential address. Not a single head of those complaints put forward by H is accepted by this Court.

**Cases cited and relied upon by H**

61. Now I will deal with the 4 cases cited by H's Counsel, again only insofar as they are of relevance and importance to the dispute or topic in question before this Court.

62. In the 1<sup>st</sup> case of 林 及 陳 (FCMC No.11831/2005), the wife in her application for custody of the 2 children of the family, was granted leave not to disclose her address in the Petition. The children are of the age of 15 and 13. However, in that case both children were living with the husband (i.e. their father) at the former matrimonial home. Thus, there is no issue of depriving the wife of her legitimate right to know the whereabouts of the children when she was allowed not to disclose her address. The factual situation here is quite in the converse.

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63. In the 2<sup>nd</sup> case of 黃及向 (FCMC No.10256/2007) where the wife was granted leave not to disclose her residential address in her Petition for divorce based upon the husband's unreasonable behaviour. There are 2 children of the family of the age of 27 and 19, both of them were residing with the respondent (i.e. their father). Again, there is no issue of depriving the wife of her legitimate right to know the whereabouts of the children when she was allowed not to disclose her address. Again, the factual situation here is quite in the converse.

64. In the 3<sup>rd</sup> case of 周及區 (FCMC No.4778/2005), the Court held that the husband in the case all along knew the names and addresses of the schools of the children, there was no sufficient evidence that the husband would harass the wife and the children. The wife's application for not disclosing her address therefore failed.

65. In the present case, it is one of H's contentions that W knew where the 3 elder children are studying and also had each of their mobile numbers. In my decision, such contention must fail for 2 reasons.

66. First, the Statement As to Arrangement for Children is a prescribed form where (a) *Residence*; (b) *Education*; (c) *Financial Provision*; and (d) *Access*, both pre and post Decree Nisi, must be clearly and correctly stated, and also have to be supported by a Statement of Truth. It is wrong for H to be able to go through the backdoor and argued that since W had the information under (b) *Education* and therefore he could withhold the information under (a) *Residence*. Knowing the names and addresses of the

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schools where the children are studying cannot be equated with knowing where the child are residing.

67. Secondly, the word “Residence” requires no explanation. It connotes a particular place where a person would return and stay for rest and sleep after school or work. It does contain some degree of continuity for a period of time even not permanent. On the other hand, mobile numbers are electronic devices which can be easily switched off, adjusted to block incoming calls of selected persons or even discard or change the mobile sim card numbers at any time and within minutes, not to say any possible transmission interference or electronic default. Thus, knowing children’s mobile numbers is neither here nor there.

68. As to the 4<sup>th</sup> case of P v. C (FCMC No.9655/2005), which is a case by the wife seeking non molestation and ouster orders against the husband and also the husband’s mother.

69. H’s Counsel Mr. Lai in his written submissions had not referred to any part of the Judgment in P v. C which are of relevance and importance or bears any resemblance to the facts of the dispute or topic in question before this Court for determination. Hence, I find this case not assisting H’s application not to disclose his residential address.

**H’s mother, the domestic helper and Mr. Fan**

70. Now I will turn to H’s other contentions of the 3 elder children had been and could have been taken care of by H’s mother and the domestic

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helper. There is also his friend Mr. Fan whom W knows had assisted H in looking after the 3 elder children.

71. There is no evidence such as Social Investigation Report arranged by this Court as to the suitability of any one of them as carer of the 3 elder children. Even though any one of them is a suitable carer, this could not be a sufficient ground to deprive the mother W of her legitimate right to know the whereabouts of the 3 elder children simply that they had been well taken care of by H's mother, the domestic helper and/or Mr. Fan.

72. I do not accept H's contention.

Conclusion

73. For all the above reasons, I decided that the Order granted by Deputy Judge Doris To dated 5 October 2018 under FCMC No.2172 of 2018 and extended twice as to non-disclosure of H's residential address should be immediately set aside.

74. Following such decision, I direct that H should forthwith provide, by way of an affidavit/affirmation to be filed in these proceedings, as to the present residential address where he and the 3 elder children are now residing.

75. Further, I also direct that H must inform this Court and W of any change of the address of himself and/or the 3 elder children unless the Court otherwise orders.

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76. I direct that a penal notice be endorsed.

Costs

77. Given the fact the H had completely failed in his contention, I find it fair and reasonable to award W's costs of H's present application, including all costs previously reserved (if any), both in FCMC No.2172 of 2018 and in these proceedings.

78. I also grant Certificate for Counsel.

79. This is a costs order nisi which would become absolute if no application to vary the same is made within 14 days from the date of this Decision.

(George Own)  
District Judge

Mr Desmond Leung instructed by Messrs. John C.H. Suen & Co., Solicitors for the Petitioner

Mr Lai Ming instructed by Messrs. Tso Au Yim & Yeung. Solicitors for the Respondent