SUPERIOR COURT OF NEW JERSEY
APPELLATE DIVISION
DOCKET NO. A-2746-21

HUNEEN IJAZ, f/k/a AHMAD,

Plaintiff-Respondent,

v.

MAQSOOD AHMAD,

Defendant-Appellant.

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Argued May 3, 2023 – Decided June 28, 2023

Before Judges Mayer and Enright.

On appeal from the Superior Court of New Jersey, Chancery Division, Family Part, Union County, Docket No. FM-20-0779-19.

Maqsood Ahmad, appellant, argued the cause pro se.

Andrew M. Wolfenson argued the cause for respondent (Wolfenson & Ashkenazi, PC, attorneys; Andrew M. Wolfenson, of counsel and on the brief).

PER CURIAM

In this post-judgment dissolution matter, defendant Maqsood Ahmad

appeals from the trial court's March 21, 2022 order denying his August 17, 2021 order to show cause in its entirety and granting plaintiff Huneen Ijaz's cross-motion to: allow her to retain $200,000 in proceeds from the sale of the parties' former marital residence; hold defendant in violation of litigant's rights for failing to pay child support; fix defendant's child support arrears; and award her counsel fees. We affirm.

I.

Following thirteen years of marriage, the parties were divorced under a February 2019 default final judgment of divorce (JOD). The JOD incorporated the parties' three-page Marital Settlement Agreement (MSA) dated November 15, 2018, and a supplemental three-page MSA (SMSA) dated January 4, 2019. The record reflects the parties "utilized the services" of an entity entitled "1-800-Divorce" to prepare the agreements.

Under the MSA and SMSA, the parties agreed plaintiff would retain ownership of the former marital residence in Elizabeth and one of the parties' businesses, Pakistan Tea House. Also, under the MSA and SMSA, both parties waived alimony. Further, under the MSA, plaintiff agreed to waive the right to seek child support from defendant, despite the fact she retained sole custody of the parties' two minor children. However, neither the MSA nor the SMSA

addressed equitable distribution of the $435,164.71 proceeds from defendant's sale of a home in Staten Island. Also, neither agreement addressed the disposition of the deli owned and operated by defendant during the marriage.

In May 2019, defendant filed a civil action against plaintiff. He alleged that in November 2018 — after the parties entered into the MSA but before the SMSA was executed — she wrongfully withdrew $200,000 in proceeds from the sale of the Staten Island home held in the parties' joint bank account. The trial court dismissed the case, finding defendant's claims should be addressed in the parties' dissolution matter.

In June 2019, the parties appeared before a Family Part judge on plaintiff's motion to compel defendant to transfer title of the Elizabeth home to her. At the same hearing, plaintiff also asked the judge to establish defendant's child support obligation, arguing the waiver of child support set forth in the MSA was unenforceable. The hearing resulted in a consent order, granting plaintiff's requested relief and fixing defendant's child support obligation at $487.50 bi-weekly. Four months later, the trial court granted plaintiff's motion for counsel fees and adjudicated defendant in violation of litigant's rights for failing to transfer the Elizabeth home into plaintiff's name.

On August 17, 2021, defendant filed an order to show cause to enjoin

plaintiff from selling her home in Elizabeth. He again alleged plaintiff improperly withdrew $200,000 from the parties' joint bank account in November 2018. Based on defendant's allegations, the trial court temporarily enjoined plaintiff from selling her home. The following month, plaintiff filed a cross-motion, asking the court to: deny defendant's emergent application, lift any restraints preventing her from selling her home, find defendant in violation of litigant's rights for failing to pay child support, and award her attorney's fees. In October 2021, the trial court permitted plaintiff to sell her home but ordered $200,000 of any sale proceeds to be held in trust, pending a plenary hearing.

In January 2022, Judge Lara K. DiFabrizio conducted the plenary hearing. As the hearing progressed, Judge DiFabrizio found defendant failed to timely produce various documents during discovery. Thus, she granted plaintiff's request to bar these documents when defendant's counsel attempted to offer them into evidence. After each party testified, the judge reserved decision on their respective applications.

On March 21, 2022, Judge DiFabrizio entered an order denying defendant's order to show cause and directing that the $200,000 held in trust from the sale of plaintiff's home in Elizabeth be disbursed to plaintiff. The judge also adjudicated defendant in violation of litigant's rights for violating existing

child support orders and entered a judgment in plaintiff's favor after fixing defendant's child support arrears at $33,880.78. Lastly, the judge awarded plaintiff counsel fees in the sum of $2,828.75.

In a comprehensive written opinion accompanying the March 21 order, Judge DiFabrizio found defendant initially certified plaintiff went to the parties' bank alone and "wrongfully withdrew" $200,000 from their joint account, but the record from the plenary hearing demonstrated he "knowingly and voluntarily went to the bank with plaintiff . . . to transfer the $200,000 into plaintiff's personal account." In crediting plaintiff's testimony over that of defendant, Judge DiFabrizio found defendant was "very evasive during his testimony" and was "not a credible witness." She also concluded the inconsistencies in his testimony demonstrated his "lack of veracity" and found "[d]efendant's rendition that plaintiff withdrew the money wrongfully is simply not believable."

Further, the judge found, "in the months after the transfer, plaintiff paid, from her personal account, many thousands of dollars [in rent] for defendant's [d]eli . . . and for other needs to run both [of the parties'] businesses" and "[d]efendant's claim that he ha[d] no knowledge of these payments is unbelievable." Additionally, Judge DiFabrizio stated defendant "twist[ed] the facts" when he claimed the money transferred from the joint account to

plaintiff's personal account in November 2018 was meant to be repaid to him. She also rejected his assertion that the $200,000 plaintiff received from the joint account several weeks before the entry of the SMSA was given to her on a temporary basis to address her immediate financial need at that time. The judge reiterated "the evidence show[ed] . . . defendant purposely deposited the [$200,000] portion of the $435,164.71 proceeds from the sale of the Staten Island home knowingly into plaintiff's personal account." She also found plaintiff "neither took the $200,000 wrongfully nor agreed to pay defendant back any of the money."

In crediting plaintiff's testimony that: defendant had her issue various checks from the $200,000 she received to satisfy expenses for each of the parties' businesses; defendant retained ownership of the deli business until "he recently sold" it; and he also "ha[d] possession of [plaintiff's Pakistan] Tea House as she . . . moved away," the judge concluded "[p]laintiff's testimony that she never asked for the . . . money, and that defendant made all the decisions . . . appear[ed] more truthful than defendant's ever-changing narrative." The judge also determined that "[w]hen asked about the remainder of the proceeds of the sale of the Staten Island home," which totaled over $235,000, "defendant could not or would not account for the monies."

Turning to plaintiff's motion to compel defendant to satisfy his child support arrears, Judge DiFabrizio found defendant "did not testify to nor address [his] alleged child support payments during the plenary hearing. Plaintiff[,] on the other hand[,] testified and . . . maintained throughout that defendant . . . made no payments toward child support since [the] inception [of his obligation] in 2019." The judge also stated that although "defendant submit[ted] copies of spending summary transactions with handwritten circles and stars attesting these [were his] child support payments to plaintiff," his proofs showed his payments were "sporadic." Additionally, she found the documentation defendant provided to support his claim for credits against his child support arrears was not "sufficient evidence," "especially considering [his] complete lack of veracity."

After adjudicating defendant in violation of litigant's rights "for his failure to abide by" existing child support orders, the judge entered a judgment against him for arrears totaling $33,880.78. She also ordered defendant to make all future child support payments through Probation via wage garnishment.

Lastly, after considering the appropriate factors set forth under Rules 4:42-9 and 5:3-5 and N.J.S.A. 2A:34-23, Judge DiFabrizio awarded plaintiff $2,828.75 in counsel fees based on defendant's "clear bad faith in bringing [his] motion and his deception perpetrated upon the court." She found defendant's

order to show cause "was neither reasonable nor made in good faith" and "on the verge of harass[ment]," adding that his "manipulation of the facts made him unbelievable."

II.

On appeal, defendant argues: (1) the judge abused her discretion in allowing plaintiff to retain the $200,000 she withdrew from the parties' joint account; and (2) plaintiff "committed fraud by changing ownership of" his deli, a "business [he] owned for [twenty-five] years." These arguments are unavailing.

We preface our discussion about defendant's contentions by noting self-represented litigants are required to comply with the same court rules as attorneys. Venner v. Allstate, 306 N.J. Super. 106, 110 (App. Div. 1997). Thus, to the extent defendant relies on documents in his appendix which Judge DiFabrizio specifically excluded during the plenary hearing, we do not consider them, recognizing defendant failed to file a motion to settle the record pursuant to Rule 2:5-5(b). We also limit our consideration "of the issues to those arguments properly made under appropriate point headings" and do not address "oblique hints and assertions" that are untethered to the point headings required under Rule 2:6-2(a)(6). Almog v. Isr. Travel Advisory Serv., Inc., 298 N.J.

Super. 145, 155 (App. Div. 1997); see also Mid-Atl. Solar Energy Indus. Ass'n v. Christie, 418 N.J. Super. 499, 508 (App. Div. 2011) (refusing to address an issue raised in a two-sentence paragraph in a brief "without a separate point heading, in violation of Rule 2:6-2(a)[(6)]"). It is not our role to weave together the fabric of an argument on a party's behalf based on threads vaguely scattered amongst the arguments that are properly identified in point headings in accordance with Rule 2:6-2(a)(6).

Additionally, we do not consider facts which are not tied to the record. Pursuant to Rule 2:6-2(a)(5), an appellant must present facts "material to the issues on appeal supported by references to the appendix and transcript." Where a party fails to refer to specific parts of the record to support an argument, we are not required "to search through the record ourselves." Spinks v. Twp. of Clinton, 402 N.J. Super. 465, 474-75 (App. Div. 2008) (citation omitted).

Turning to the substantive arguments raised in defendant's point headings, we are mindful "[a]ppellate courts accord particular deference to the Family Part because of its 'special jurisdiction and expertise' in family matters." Harte v. Hand, 433 N.J. Super. 457, 461 (App. Div. 2013) (quoting Cesare v. Cesare, 154 N.J. 394, 412 (1998)). Deference is given to the credibility determinations made by the trial judge who "hears the case, sees and observes the witnesses, and hears

them testify," thus affording the trial judge "a better perspective than a reviewing court in evaluating the veracity of a witness." Gnall v. Gnall, 222 N.J. 414, 428 (2015) (quoting Cesare, 154 N.J. at 412).

"[A] reviewing court should uphold the factual findings undergirding the trial court's decision if they are supported by adequate, substantial and credible evidence on the record." MacKinnon v. MacKinnon, 191 N.J. 240, 253-54 (2007) (quoting N.J. Div. of Youth & Fam. Servs. v. M.M., 189 N.J. 261, 279 (2007)). Thus, we "will reverse only if we find the trial judge clearly abused his or her discretion." Clark v. Clark, 429 N.J. Super. 61, 72 (App. Div. 2012) (citation omitted). We also accord deference to the trial court and will not overturn an evidentiary ruling absent "an abuse of discretion." Est. of Hanges v. Metro. Prop. & Cas. Ins. Co., 202 N.J. 369, 374 (2010) (citation omitted). However, "all legal issues are reviewed de novo." Ricci v. Ricci, 448 N.J. Super. 546, 565 (App. Div. 2017) (citing Reese v. Weis, 430 N.J. Super. 552, 568 (App. Div. 2013)).

Guided by these principles, we perceive no basis to disturb the March 21, 2022 order. Moreover, we are persuaded defendant's arguments lack merit. R. 2:11-3(e)(1)(E). The same is true for contentions raised by defendant which are untethered to point headings, contrary to Rule 2:6-2(a)(6), including his newly

raised argument that Judge DiFabrizio should have recused herself because she "favored the [p]laintiff."

As to the recusal argument, we further observe that appellate review is not limitless. "The jurisdiction of appellate courts rightly is bounded by the proofs and objections critically explored on the record before the trial court by the parties themselves." State v. Robinson, 200 N.J. 1, 19 (2009); see also Zaman v. Felton, 219 N.J. 199, 226-27 (2014). Because defendant's recusal argument was not raised before Judge DiFabrizio, is not jurisdictional in nature, and does not substantially implicate the public's interest, no further discussion is warranted on this issue. See Selective Ins. Co. of Am. v. Rothman, 208 N.J. 580, 586 (2012); Nieder v. Royal Indem. Ins. Co., 62 N.J. 229, 234 (1973); Pressler & Verniero, Current N.J. Court Rules, cmt. 3 on R. 2:6-2 (2023).

In sum, we affirm the March 21 order substantially for the reasons expressed in Judge DiFabrizio's thoughtful written opinion.

Affirmed.