

Federal Court of Canada

Between

His Highness Prince Karim Aga Khan

- and -

NAGIB TAJDIN, ALNAZ JIWA, JOHN DOE, and DOE CO.

and all other persons or entities unknown to the Plaintiff
who are reproducing, publishing, promoting and/or authorizing
the reproduction and promotion of the Infringing Materials

Copyright & Reference Proceedings

- Overview -

December 4, 2014

Synopsis

The seriousness by which His Highness the Aga Khan has pursued in finding out the names of the purchasers of Infringing Materials (Farman books) is not only undeniable but exceedingly obvious. His Highness told the Court of Appeal that he had initiated legal action after "*lengthy efforts to seek an internal resolution failed*". However, during proceedings he experienced "*extraordinary difficulties in extracting any verifiable or reliable information*" from infringers Alnaz Jiwa and Nagib Tajdin, who "*have systematically sought to stay and/or appeal every single order and direction in this proceeding*".

Given their "*combative nature*", His Highness asked the Court to compel the infringers to respond to unanswered questions; to provide documents and information they have refused to give; to serve a better affidavit and to re-attend for discovery under oath.

In response to His Highness' voluminous appeal and motion records, the Court has compelled the infringers to abide by the Court's Judgment dated 15th Jan. 2014 and Order dated 20th October, 2014.

Copyright proceedings persisted for 2 ½ years; Reference proceedings has consumed nearly 4 years and it is on-going. This segment provides an overview of both parts. To facilitate reading, a table of contents is provided.

Contents

1. Copyright Proceedings.....	p.4
i. The Imam Directly Speaks to His Community.....	p.5
a. Fraud Allegations.....	p.6
b. Defying the Talika.....	p.7
c. Appealing the Harrington Judgment.....	p.8
2. Reference Proceedings.....	p.8
i. His Highness Experienced Extraordinary Difficulties.....	p.7
ii. The Court Order.....	p.10
a. Infringer Alnaz Jiwa.....	p.10
b. Infringer Nagib Tajdin.....	p.11

Copyright Proceedings

April 6, 2010 - June 26, 2012

In December 2009, Nagib Tajdin published, sold and distributed a book entitled "*Farmans 1957-2009 -Golden Edition Kalam-E Imam-E Zaman*" purporting to contain 589 Farmans and 77 Talikas (Infringing Materials) authored by His Highness Prince Karim Aga Khan ("His Highness"). The actions of Nagib Tajdin constituted:

1. A flagrant breach of the Ismaili Constitution;
2. A grave attack on rights and responsibilities of the Imam ("His Highness");
3. An infringement of His Highness' copyright and moral rights;
4. Betrayal: Nagib Tajdin broke his 11 years old promise he had made to His Highness' senior aides and jamati leaders;

In the wake of unprecedented defiance and when "*lengthy efforts to seek an internal resolution*" had failed, His Highness initiated legal action against infringers, named and unnamed, in the Federal Court of Canada on April 6, 2010.

His Highness sought the following relief from the Court: A declaration that His Highness is the sole owner of His Literary Works (Farmans & Talikas); A declaration that the defendants (named and unnamed) have infringed His Highness' copyright in his Literary Works; A declaration which grants a permanent injunction that requires the defendants Nagib Tajdin, Alnaz Jiwa and their agents to cease reproducing, publishing, distributing and selling the Infringing Materials; Damages ("Reference proceedings"), etc.

To obstruct His Highness from obtaining the foregoing relief, the infringers with all their might engineered a vexatious, frivolous and meritless defence. The defence narrated unimaginable lies under a capsule of fraud, forgeries, and a one-minute Karim Alibhay *mehmani*-consent. The edifice of this Black Legend was completely demolished by His Highness' solicitors, most notably Mr. Brian Gray; Mr. Brian Lindblom, a world renowned

forensic expert; Mr. Daniel Gleason; Ms Jennifer A. Colman and others. The Honourable Mr Justice S. Harrington performed its permanent legal burial. The Court found the defendants liable for copyright infringement and granted summary judgment in favour of His Highness. But in the hearts and souls of millions of Ismailis, it is His Highness' verdict which reigned supreme.

The Imam Speaks Directly to His Jamat

Some two weeks after the Court delivered its historic Judgment, the Imam communicated directly with His Community ("Jamat") through a highly honoured form of communication known as *talika* - a direct written communiqué from the Imam-of-the-Time to His followers ("murids").

Given the gravity and magnitude of Imam's unprecedented legal action and in order for murids to obtain absolute clarity in this very serious matter, extraordinary steps were taken. The *talika* of the Imam-of-the-Time was read in all houses of worship ("Jamatkhanas") across Canada, USA, United Kingdom and Kenya in four different languages: English (original) and its translation in French, Gujarati and Persian. Additionally, special arrangements were made for murids to peruse through this *talika* at any given time.

In essence, the *talika* reiterated some of the core statements the Imam had made during the copyright proceedings. The court documents are available to the public; hence, there is no secret about these assertions. What follows is a gist of some assertions which were made in the *talika*.

1. Rationale of legal action: The integrity and sanctity of Imamat communications must always be safeguarded by the Imam-of-the-Time personally and there can never be a compromise in this matter;

2. Prerogative: It is the Imam-of-the-Time's absolute prerogative to agree on the content, the timing and the methodology of dissemination of His *farmans*, *talikas* or any other communications. The foregoing tasks can only be fulfilled by the Imam's chosen jamati institutions and whose leadership the Imam-of-the-Time personally appoints;
3. Imam's Vision: The Harrington Judgment is a legal underpinning which makes a profound statement - one that is highly significant for the Imamat and Jamat, for now and forever. It stands to reason that an insightful awareness of the letter and spirit which reside in the Harrington Judgment is immensely rewarding.

Fraud Allegations

Prior to and during legal proceedings, the Tajdin-Jiwa team had manufactured fraud allegations. After receiving the Imam's first letter, NT ferociously attacked the Imam's personal secretary. The Imam responded within three days; some excerpts from Imam's response:

"[...] Mrs Parkes has been in my service for 28 years and to make an accusation such as the one you have made about an employee of the Imam who has served loyally for so many years is completely unacceptable to me, as well as being highly offensive to Mrs Parkes, and is no doubt a matter on which she could seek legal redress, and on which she would have my full support.

I had hoped that my letter of 24th of January would have convinced you not to prolong further the unacceptable situation you have created. I wrote to you personally, as I am doing today in the hope that this matter could be resolved quickly and effectively as between a loyal Murid and the Imam. I confirm in all respects the text of that letter. This is the reason I am sending you this

second letter and I want you to know that it is the last one I will send you on this matter. If it cannot be solved in the relationship of a Murid to his Imam, I will have no other choice than to use all the measures available to me to enforce my rights, and to exercise effective control on my communication with my Jamat.

His Highness added in his own handwriting the following: "*This is not at all the course I would wish to have to follow.*" (emphasis added)

While the proceedings went on, the Tajdin-Jiwa team fabricated additional spurious fraud allegations. They suggested that the Imam's staff at Aiglemont, the legal counsel His Highness had retained, senior jamati leaders and a court reporter were engaged in some grand criminal conspiracy. As stated earlier, these false allegations were uprooted during legal proceedings. The Imam's *talika* also made direct reference to these false allegations.

The Imam-of-the-Time assured His murids that He was the sole Plaintiff and that He had both drafted and signed the two letters addressed to Nagib Tajdin. The Imam unequivocally stated that a number of allegations which were made against His "*staff and the lawyers*" and jamati leaders were "*unfounded*". He assured His murids that His jamati leaders and solicitors "*acted entirely*" in accordance with the "*wishes and instructions*" of the Imam-of-the-Time.

Disregarding Talika

In the *talika*, the Imam also expressed that it was His wish and desire that "murids" would not prolong this matter. In response, infringers became more defiant, shameless and wicked. They ridiculed and made mockery of the Imam's *talika*, most notably on

NT's website. Among those who support the cause of infringers are Maheeb Chatur (London, England) and Abdul Premji (Pickering, Toronto).

Appealing the Harrington Judgment

Infringers NT and AJ appealed the Harrington Judgment. The fanatics were indoctrinated into believing that a "*second round*" was to soon come when "*fraudsters will be taken to task*". NT's propaganda machine (website ismaili.net) posted the following on 22nd August 2011:

"People of the Truth have always been a minority. Being part of the majority of those who may be against Alnaz or Nagib does not guaranty them that they are on the Path of Truth."

The so-called second round of Nagib Tajdin did materialize but the prophecies worked against NT and AJ. Three judges from the Court of Appeal took Jiwa-Tajdin to task. The Court of Appeal tossed their appeals in trash. Next the Defendants knocked on the door of Supreme Court of Canada. The highest Court of the land responded that they were not interested in listening to their absurd appeals; thus their applications for leave to appeal were forever tossed in the trash of legal system in June 2011. Thus ended a very ugly 30-month saga of defiance. This brings us to part 2 of legal action, namely the Reference Proceedings.

Reference Proceedings

March 4, 2011 - Present

By Judgment dated March 4, 2011, Mr. Justice Harrington had ordered a reference for damages or profits resulting from NT's and AJ's infringing activities. With all their might, NT and AJ fiercely tried to evade court discoveries and hide relevant information, specially the identities of printer(s), agents, distributors, recipients and purchasers of

Infringing Materials (purported Farman books). At one point, NT became hysterical; he slandered the Plaintiff (His Highness), the Plaintiff's legal entourage, the Plaintiff's senior aide, senior jamati leaders and individuals who weren't even part of legal action!

His Highness Experienced Extraordinary Difficulties

In his motion dated June 16, 2014, His Highness affirmed that he had "*experienced extraordinary difficulties in extracting any verifiable or reliable information from the Defendants*". His Highness requested the Court to compel both infringers to respond to questions which they had been refusing to answer; who have refused to provide documents and information as requested by the Plaintiff; serve a better affidavit and re-attend for discovery under oath. Some of the extracts from His Highness motion read:

"Mr. Tajdin has never complied with a Direction of this Court dated September 6, 2011 to deliver a further supplementary affidavit of documents, despite having unsuccessfully appealed this Direction up to the Federal Court of Appeal.

It is simply not credible that Mr. Tajdin, who admittedly sold thousands of books estimating revenues for infringing sales at close to \$200,000, did not maintain any sales accounts. Yet, Mr. Tajdin is capable of producing detailed receipts of his expenses associated with the book.

It is likewise not credible that Mr. Jiwa, who admittedly actively promoted and sold 24 boxes of infringing books over e-mails and otherwise, can only produce limited documentation of a single sale. " "

"Mr. Tajdin has never produced the original unredacted invoices from the shipping company...Mr. Tajdin has never produced the unredacted PayPal documents, showing the customer names...Mr. Tajdin has never produced the 10 names, selected by the Plaintiff... Mr. Tajdin has never produced any information with respect to the bank accounts he used to deposit the money

received for the books, nor has he ever produced bank records, for the period during which he manufactured and sold the infringing Golden Edition."

"Mr. Jiwa has never identified the names and addresses of known book distributors, identified the names and addresses of those who received a free copy of the book, or provided a list of persons to whom he distributed the book...

"Mr. Tajdin has never identified the location of his laptop... Mr. Tajdin has never delivered an electronic reproduction of his Golden Kiz mailbox... "

The Court Order

In response to His Highness' appeal and motion records, the Court compels infringers Nagib Tajdin and Alnaz Jiwa to abide by Court's Judgment dated 15th January 2014 and Order dated 20th October, 2014.

Infringer Alnaz Jiwa

By December 5, 2014, infringer Alnaz Jiwa must provide:

1. Name and address of distributors of Farman book known to him;
2. Name of distributor who sold 24 boxes of Farman books to infringer Alnaz Jiwa;
3. Name of every person he can recall distributing Farman books to and "names and addresses" of all those who received a free copy of Farman book from Alnaz Jiwa;
4. "[A] *further and better affidavit of documents*";

As well as re-attend an examination for discovery under oath in Montreal on December 22, 2014.

Infringer Nagib Tajdin

By December 5, 2014, infringer Nagib Tajdin must provide the following documents, information and the names of 10 buyers:

1. CANADA: 600 Farman books shipped on 12th April 2009;
2. AFRICA: 200 Farman books shipped on 12th October 2009;
3. CANADA: 100 Farman books shipped on 27th January 2010;
4. CANADA: 200 Farman books shipped on 27th January 2010;
5. USA: 116 Farman books shipped to on 15th February 2010;
6. USA: 100 Farman books shipped to on 15th February 2010;
7. CANADA: 100 Farman books shipped on 17th February 2010;
8. CANADA: 300 Farman books shipped on 17th February 2010;
9. CANADA: 400 Farman books shipped on 22nd February 2010;
10. CANADA: 200 Farman books shipped on 22nd February 2010.

Nagib Tajdin must also provide the following by December 5, 2014:

11. An electronic copy of his Golden Kiz (contains info vis à vis infringing materials and activities);
12. An unredacted copy of PayPal (contain names of buyers);
13. Bank account in which monies from selling Farman books were deposited;
14. Bank account where monies from PayPal customers were deposited;
15. Bank records from personal account and personal line of credit from Nov. 2009 to March 2011;
16. "[A] *further and better affidavit of documents*";

As well as re-attend an examination for discovery under oath in Montreal on January 26, 2014.