

**CITATION:** Rana v. Agnihotri, 2026 ONSC 1496  
**COURT FILE NO.:** CV-25-0880-0000  
**DATE:** 2026 03 12

**SUPERIOR COURT OF JUSTICE – ONTARIO**

491 Steeles Avenue East, Milton ON L9T 1Y7

**RE:** Ajai Rana, Applicant

**AND:**

Keshav Agnihotri et al, Respondents

**BEFORE:** Associate Justice Glick

**COUNSEL:** Ajai Rana, Self-Represented and not in attendance  
David Lee, for the Respondents

**HEARD:** February 26, 2026

**ENDORSEMENT**

**Overview**

[1] This is a motion brought by Keshav Agnihotri, Jag Mohan Mainra, Pankaj Bhasin, Nilesh Patel, Neelam Sharma, Snehal Katarey and Hindu-Maha-Sabha of Burlington and Oakville (the “Respondents”) to dismiss the Applicant’s proceeding. The reason that the Respondents say that the Application ought to be dismissed is because of the Applicant’s failure to pay a costs award as ordered by Justice Miller on July 10, 2025, in the amount of \$33,265.90.

[2] The Applicant was absent on the date the motion was originally scheduled to be heard. The motion was adjourned to February 26, 2026 to provide the Applicant a final opportunity to attend and speak to the matter. The Applicant did not do so, though properly served.

[3] For the reasons that follow, the Application is stayed pending payment of the costs awarded by Justice Miller and the costs awarded on this motion. If the costs are not paid within sixty days, the Application is dismissed.

### **Background**

[4] The Application is brought pursuant to the *Not-for-Profit Corporations Act, 2010*, S.O. 2010, c.15. The Temple, Hindu Maha-Sabha of Burlington and Oakville {the “Temple”) is a not-for-profit corporation. The Applicant, in the Application, sought: an order dissolving the Executive Committee; an order requiring the Temple to call an election under the supervision of an Independent Election Supervisor; and an order dissolving any changes made by the current Executive Committee to the Constitution of the Temple.

[5] The Applicant brought an urgent motion on July 9, 2025. He sought the following orders:

- a. An Order restraining the holding of the election on July 13, 2025 pending the disposition of the Application.
- b. An Order reinstating his membership;
- c. An Order dissolving the appointment of the Election Committee; and
- d. An Order requiring the delivery of a current membership list.

[6] At the time of the motion the Applicant was represented by counsel. On the same date the urgent motion was heard the Respondents brought a threshold motion to remove counsel for the Applicant on the basis of conflict. The Applicant’s counsel had represented the Respondents in a previous application. Justice Miller found that the Applicant’s counsel was in a conflict and ordered that he be removed.

[7] The Applicant was self-represented for the argument of the urgent motion. The only issue considered urgent by the Court was the question of whether there should be an order restraining the July 13, 2025 election. The other issues were not considered urgent. Justice Miller found that they could be dealt with by way of a long motion.

[8] Justice Miller dismissed the urgent motion. Applying the *RJR-MacDonald* test, she found that there no serious issues to be tried, although there were serious issues with respect to the Applicant's credibility. Justice Miller similarly found that there was no irreparable harm, and that the balance of convenience favoured the Respondents. As a result, the Applicant's motion was dismissed. The election was allowed to proceed and Justice Miller found that the corollary issues regarding the dissolution of the appointment of the Election Committee and delivery of a membership list to be moot. The balance of the relief was adjourned to a triage court appointment on August 7, 2025.

[9] Justice Miller awarded the Respondents \$33,265.90 in costs for both motions. She found that "the costs incurred were proportional to the complexity of the proceeding and the importance of the issues taking into account the conduct of the Applicant in bringing the matter on such short notice." Costs were payable forthwith.

[10] Following the motion, the Respondents wrote to the Applicant requesting payment of costs. These requests were made:

- a. July 17, 2025
- b. July 24, 2025
- c. July 28, 2025
- d. August 13, 2025
- e. August 18, 2025
- f. August 25, 2025

g. September 11, 2025

[11] Where the Applicant responded to some of the above emails, the Applicant did not address the issue of costs. Neither did the Applicant pay the costs.

[12] It appears that the Applicant did not book a triage court attendance to deal with the issues that were not addressed in the urgent motion. It also appears that no steps have been taken at all since the urgent motion on July 9, 2025.

[13] The Respondents state that the Temple, as a not-for-profit, depends on donations to support its operations. They say that the failure to pay costs has caused the Temple and the other Respondents significant prejudice. This statement though is made in an affidavit by an articling student at the Respondents' counsel's firm and there is no further evidence provided to support this assertion.

### **Law**

[14] If a party fails to pay the costs of a motion, subrule 57.03(2) provides the court with discretion to dismiss or stay a party's proceeding, strike out a party's defence, or make such other order as is just. As stated by the Court of Appeal at paragraph 2 in *Garrett v. Oldfield*, 2016 ONCA 424, "in determining whether an action should be dismissed, a court must balance the competing interests of the parties and consider all relevant factors."

[15] Relevant factors that a court may consider in exercising its discretion under subrule 57.03(2) were set out by Associate Justice Robinson in *Allen v. Kumar*, 2022 ONSC 4223 at paragraph 11:

- a. The court must be alive to the possibility that non-compliance with court orders is indicative of its process being abused. Failing to act may deprive the moving party of justice according to law and risks rendering the court "a paper tiger";

- b. A litigant's right of access to the courts must be accompanied by the responsibility to abide by the *Rules* and comply with court orders. Exempting impecunious parties from enforcing costs orders may amount to granting "carte blanche" to continue to ignore rules and orders and take unsupportable steps in the action without fear of consequences;
- c. Where a party had the opportunity to make submissions about impecuniosity at the prior hearings leading to the costs order(s), subsequently seeking to relieve against payment of those costs constitutes a collateral attack on the prior orders;
- d. The court may consider a pattern of unnecessary and unreasonable steps taken in the proceeding, including appealing numerous orders without chance of success or knowing the risk of an adverse costs order;
- e. If court orders are cavalierly ignored and if a litigant continuously fails to comply with their obligations as a litigant and then fails to abide by the costs consequences of that behaviour, the court is justified in bringing some finality to the action;
- f. Impecuniosity is not a shield for unreasonable conduct of litigation and a dismissal order may be made even if it resolves the matter on procedural rather than substantive grounds;
- g. Self-represented litigants, while entitled to some accommodation and assistance to ensure a fair hearing, are not entitled to abuse the system or the party opposite. Failure to enforce orders once made against self-represented parties is unfair to the parties opposite and undermines respect for the court and the civil justice system; and
- h. At some point, costs themselves become an inadequate form of compensation for prejudice, especially where the party on whom they are imposed refuses to pay them.

[16] The Respondents have also drawn my attention to the decision of Justice Myers in *Baradaran v. Tarion Corporation*, 2015 ONSC 7892. In that decision, at paragraph 16, Justice Myers spoke to the need to enforce court orders against self-represented litigants just as they should be enforced against represented litigants. Justice Myers, in that decision, dismissed an action for non-payment of costs orders after having previously stayed the action to permit the Plaintiff a final opportunity to pay (see 2014

ONSC 6870). The Defendants in that case had then been given leave to move in writing without notice to the Plaintiff to dismiss the action with costs.

### **Analysis**

[17] The Applicant, as above, did not participate in the hearing of this motion. Indeed, aside from responding to several, but not all, of the Respondents' counsel's emails, the Applicant does not appear to have taken any steps in this matter since his motion was dismissed by Justice Miller on July 10, 2025. This includes taking no steps to pay the costs award resulting from that decision.

[18] Given the non-attendance and non-participation, there is no evidence before the court that the Applicant is impecunious or otherwise unable to pay the cost order. There is also no evidence of an intent to pursue this matter now that the date for the disputed election has passed and the election presumably taken place. There is no argument by the Applicant that the claim should be allowed to proceed on its merits.

[19] This goes to the balancing of interests that a court must conduct in determining a remedy for the failure to pay costs. Courts do not have to weigh the merit of the claim. Instead, absent evidence, courts will assume that the claim is at least potentially meritorious. This presumption is seen at paragraph 6 of the Court of Appeal's decision in *Tarion Warranty Corporation v. 1486448 Ontario Inc.*, 2012 ONCA 288. However, the Applicant's failure to attend or to make submissions opposing dismissal is a relevant factor in the court's balancing of the parties' interests.

[20] The fact that nothing has happened since July 2025 is also relevant when considering the factors set out in the law section above. I do not find that the Applicant is abusing the process of the court. It appears instead that he has

effectively abandoned the application. As Justice Miller noted in her endorsement, at least some of the relief requested therein is now moot.

[21] It may be that the Applicant has decided the relief that remains available is not worth pursuing. It may be that the Applicant has not moved forward for some other reason. Either way, this lack of movement places the Respondents in a difficult position.

[22] The application remains outstanding and a costs order remains unpaid almost nine months after the order was made. This failure to pay costs demonstrates a failure of the Applicant to abide by the costs consequences of his litigation. The court is justified in this case to bring some finality to the action, even if the finality is procedural and not substantive.

[23] I am alive to the fact that the Applicant is self-represented. This fact led me to adjourn the motion on February 5, 2026. The Applicant was given an additional three weeks to respond to the motion, but ultimately did not do so. The fact that the Applicant is self-represented though is not an answer to this motion, or his non-response. It would be unfair to the Respondents not to enforce the costs order, especially after there has been no response to repeated demands to pay, and given that the Temple is a not-for-profit dependent on donations.

[24] While fairness requires firm action, an immediate dismissal order is a last resort. Courts, balancing the interests at play, often give a party one last chance to pay costs and regularize their position before moving to dismissal. This was the approach of Justice Dunphy in *Rana v. Unifund Assurance Company*, 2016 ONSC 2502, Justice Myers in *Baradaran v. Tarion Corporation*, 2014 ONSC 6870, and more recently, the approach taken by Associate Justice Frank in *Dunning v. Colliers Macaulay Nicolls Inc.*, 2025 ONSC 3561.

[25] I find that the approach taken by the court in these cases ought to apply in this case as well. Staying the action to give the Applicant a final chance to pay cost strikes an appropriate balance between the competing interests at play in this case. An Order is to go as set out below, staying the action and giving the Applicant sixty days to comply, failing which the application is to be dismissed.

### **Costs**

[26] The Respondents seek their costs of this motion. They have provided a bill of costs for the entire action and a bill of costs for the motion only. Given my decision to stay the action, I am today awarding costs for the motion only.

[27] Having regard to the Rules, and the Bill of Costs, I award costs of the motion at \$12,880.21 inclusive on a partial indemnity basis. The extra \$1000 over the \$11,880.21 in the Bill of Costs represents the additional amount sought in oral argument for the two attendances.

[28] I order that these costs must also be paid by the Applicant within sixty days, in addition to the amount ordered by Justice Miller, failing which the Application is dismissed.

### **Disposition**

[29] Having regard to the analysis above, I order as follows:

- a. The application is stayed pursuant to Rule 60.12 and Rule 57.03(2) of the *Rules of Civil Procedure*.
- b. The stay of proceedings shall only be removed upon the Applicant paying the Respondent the costs award as ordered by Justice Miller on July 10, 2025, in the amount of \$33,265.90 plus post-judgement interest in

accordance with the *Courts of Justice Act*, and the amount of \$12,880.21 I have ordered today.

- c. If the Applicant does not pay the amount above in full within sixty days, the Applicant's proceeding shall be dismissed without further notice. The Respondents shall be entitled to move in writing and *ex-parte* for an order dismissing the action upon filing an affidavit certifying the non-payment of the foregoing amounts ordered to be paid. The Respondents may also at that time seek the costs of the Application not dealt with by Justice Miller or by my order today.
  
- d. If the Applicant does pay the costs set out in subparagraph b. above, the parties are directed to schedule a case conference to timetable the next steps in the application.

[30] The Respondents are granted leave to take out an Order on the terms set out above without the need to obtain approval as to form and content from the Applicant. They are directed to serve that Order on the Applicant once issued.

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AJ GLICK

**Released:** March 12, 2026