

Manchanda v Mahoney

2023 NY Slip Op 33767(U)

October 24, 2023

Supreme Court, New York County

Docket Number: Index No. 155075/2023

Judge: Erika M. Edwards

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This opinion is uncorrected and not selected for official publication.

**SUPREME COURT OF THE STATE OF NEW YORK
NEW YORK COUNTY**

PRESENT: HON. ERIKA M. EDWARDS

PART 10M

Justice

-----X

RAHUL MANCHANDA,

Plaintiff,

- v -

NEW YORK FAMILY COURT SUPPORT MAGISTRATE
KEVIN MAHONEY,

Defendant.

-----X

INDEX NO. 155075/2023MOTION DATE 07/05/2023,
07/11/2023MOTION SEQ. NO. 001, 002

**DECISION + ORDER ON
MOTION**

The following e-filed documents, listed by NYSCEF document number (Motion 001) 7, 8, 9, 10, 11, 12, 13, 14, 23, 24, 25, 26

were read on this motion to/for

DISMISS

The following e-filed documents, listed by NYSCEF document number (Motion 002) 5, 6, 15, 16, 17, 18, 19, 20, 21, 22

were read on this motion to/for

INJUNCTION/RESTRAINING ORDER

Upon the foregoing documents, after oral argument held before the court on September 21, 2023, the court grants Defendant New York Family Court Support Magistrate Kevin Mahoney's ("Defendant") motion to dismiss Plaintiff Rahul Manchanda's ("Plaintiff") complaint, filed under motion sequence 001, and the court denies Plaintiff's motion for a temporary restraining order or preliminary injunction, filed under motion sequence 002.

Plaintiff, who is a licensed attorney in the State of New York and appears *pro se*, seeks to challenge a New York County Family Court order, dated May 10, 2023, where Defendant, who was the Family Court Support Magistrate assigned to his case, denied Plaintiff's petition for a downward modification of his child support payments.

Plaintiff filed the petition on June 14, 2020. In the petition, he sought to modify the Family Court's previous order, dated February 13, 2020, which directed Plaintiff to pay child

support for two minor children that he has with his ex-wife in the amount of \$500/week. The order was based on the terms of the parties' Stipulation of Settlement, which was also dated February 13, 2020, where Plaintiff agreed to pay this amount. After approximately four months, Plaintiff claimed that he signed the Stipulation of Settlement under "coercion and duress," that there was a substantial change in circumstances due to the "CoronaVirus government shutdown/lockdown" which "destroyed" his law firm, and that he needed a reduction in the amount of his child support payments.

Defendant conducted a three-day downward modification trial on October 5, 2022, January 27, 2023, and May 10, 2023, which included his review of the documentary evidence filed by Plaintiff and Plaintiff's testimony. At the conclusion of the trial, Defendant denied Plaintiff's petition. According to the Order of Dismissal and Findings of Fact, Defendant found in substance that Plaintiff failed to meet his burden of proof for modification by failing to demonstrate sufficient changes of circumstances to warrant a downward modification of his child support payments. Defendant found that Plaintiff failed to present satisfactory job search proof for a person of his level of education and that he provided "questionable" testimony regarding his overall financial situation. Such questionable testimony included Plaintiff's efforts to better his financial situation, his explanation for having the resources to purchase a new home subsequent to the filing of his petition, his household expenses and issues regarding his tax returns. Therefore, Defendant denied Plaintiff's petition and the amount of Plaintiff's child support payments remained the same.

Plaintiff filed Objections to the order on May 25, 2023. Plaintiff argued in substance that the child support order violated New York State and federal law because the amount of child support was well over 50% of his income. In a Decision and Order, dated June 22, 2023, Family

Court Judge Anna Lewis dismissed Plaintiff's Objections and affirmed the Defendant's order.

Plaintiff was advised of his right to appeal the order, but he failed to do so.

In his complaint in the instant matter, Plaintiff seeks \$10,000,000 in actual and punitive damages for Defendant's alleged willful violation of the Child Support Standards Act ("CSSA") aka Family Court Act ("FCA") § 413(1)(f). He also seeks "a reduction from approximately \$25,000 per year, \$2000 per month (\$500 per week) to 25% of his income to arrive at approximately \$12,500 per year, \$1000 per month, \$250 per week."¹ Plaintiff also seeks "retroactive overage paid support since filing the Downward Modification in June 2020," and other and further relief, including interest, costs and disbursements of this action. Plaintiff argues in substance that the Family Court order is unconstitutional, illegal and in violation of New York State and federal law because he should not have to pay more than 25% of his income, but the order requires him to pay more than 50% of his income. Plaintiff argues that his income "hovers around \$50,000 consistently for almost 20 years" and his financial situation has worsened since he filed his petition in Family Court.

Plaintiff now moves under motion sequence 002, for an emergency ex parte order granting a temporary restraining order or preliminary injunction against Defendant. It should be noted that Plaintiff failed to file his motion as an emergency ex parte order to show cause, so by the time the motion was marked fully submitted by motion support and oral argument was held, the temporary restraining order portion of the motion was moot.

Although Plaintiff's notice of motion and affirmation in support do not specify what the court should enjoin, Plaintiff's proposed order states that he seeks "a Stay on all further child

¹ The court is unclear as to the total amount of the reduction sought by Plaintiff, as he requests a reduction from \$25,000/year, \$2000/month (which is \$24,000/year), and \$500/week (which is \$26,000/year) to \$12,500/year, \$1000/month (which is \$12,000/year), and \$250/week (which is \$13,000/year).

support collections from the Child Support Enforcement Unit until the correct weekly dollar amount can be properly calculated.”

Defendant now moves, under motion sequence 001, for dismissal of Plaintiff’s complaint for lack of subject matter jurisdiction and for failure to state a cause of action, pursuant to CPLR 3211(a)(2) and (a)(7), respectively. Defendant argues in substance that the New York State Supreme Court lacks jurisdiction over Plaintiff’s monetary claims, as such actions must be filed in the Court of Claims. Defendant further argues in substance that Plaintiff’s action is barred by Defendant’s absolute judicial immunity as a Support Magistrate, since he was acting within the scope of his judicial capacity and his actions do not fall within any recognized exception. Additionally, Defendant argues that Plaintiff’s complaint fails to state a cause of action in that it fails to allege a statutory or constitutional violation. It fails to allege that Defendant violated the Child Support Standards Act (“CSSA”), Section 413(1)(f) of the Family Court Act, or his constitutional due process rights.

Plaintiff opposes Defendant’s motion in a “Reply” Affirmation. Plaintiff argues in substance that his complaint is sufficient, that he is entitled to the downward modification since the orders violated the law and his constitutional rights, that the Supreme Court has concurrent jurisdiction, that another Support Magistrate also conducted hearings over a three year period and he disputed many of Defendant’s arguments. Plaintiff also argues in substance that the Family Court erred by failing to consider his ex-wife’s financial statements when it denied his petition, that Defendant and Judge Lewis committed crimes and intentional torts outside the scope of their duties by issuing their respective orders, and that Plaintiff filed formal disciplinary complaints against them.

A motion to dismiss may be made on the ground that the court has no jurisdiction of the subject matter of the cause of action (CPLR 3211[a][2]).

When considering Defendants' motion to dismiss for failure to state a cause of action, pursuant to CPLR 3211(a)(7), the court must afford the pleading a liberal construction, accept all facts as alleged in the pleading to be true, accord the plaintiff the benefit of every possible inference, and determine only whether the facts as alleged fit within any cognizable legal theory (*Leon v Martinez*, 84 NY2d 83, 87-88 [1994]). A court may freely consider affidavits submitted by a plaintiff to remedy any defects in the complaint, but the court should not consider whether the plaintiff has simply stated a cause of action, but rather whether the plaintiff actually has one (*Amaro v Gani Realty Corp.*, 60 AD3d 491, 492 [1st Dept 2009]). Normally, a court should not be concerned with the ultimate merits of the case (*Anguita v Koch*, 179 AD2d 454, 457 [1st Dept 1992]). However, these considerations do not apply to allegations consisting of bare legal conclusions as well as factual claims which are flatly contradicted by documentary evidence (*Simkin v Blank*, 19 NY3d 46, 52 [2012]).

Here, the court denies Plaintiff's motion for a temporary restraining order or preliminary injunction, filed under motion sequence 002, as Plaintiff failed to demonstrate his entitlement to such relief.

Additionally, the court grants Defendant's motion to dismiss Plaintiff's complaint, filed under motion sequence 001. The court agrees with the controlling authority cited by Defendant. Plaintiff improperly raised additional claims against Defendant and Judge Lewis, who is not a named Defendant, in his opposition and reply papers. Overall, it appears that Plaintiff asks the Supreme Court to vacate the Family Court order, to issue a new order reducing the amount of his child support payments, without a hearing and without considering any evidence, to reimburse

him for his overpayments, plus interest, to pay him \$10,000,000 in actual and punitive damages, plus additional relief. This court declines to grant Plaintiff any of this relief.

The court finds that Plaintiff's complaint fails to state a claim upon which relief may be granted. Even when affording Plaintiff's complaint a liberal construction, accepting all facts as alleged in the complaint to be true, according Plaintiff the benefit of every possible inference, and determining only whether the facts as alleged fit within any cognizable legal theory, the court finds that Plaintiff's complaint fails to state a cause of action for any of his claims.

The court determines that this court lacks subject matter jurisdiction over Plaintiff's causes of action. At all relevant times mentioned, Defendant was acting within the scope of his authority as a Family Court Support Magistrate employed by the New York State Court system. As such, Plaintiff's claims for monetary damages in the amount of \$10,000,000 must be filed in the Court of Claims. Additionally, Plaintiff's non-monetary claims are barred by Defendant's absolute judicial immunity and they do not fall within any exception. Furthermore, Plaintiff failed to sufficiently allege the elements of his claims regarding constitutional or statutory violations.

The Family Court found that Plaintiff failed to meet his initial burden of demonstrating sufficient changes in circumstances to warrant a downward modification of his child support payments and that Plaintiff provided "questionable" testimony regarding material issues. Therefore, it is clear that Defendant considered all of the evidence and the testimony and made credibility findings which will not be disturbed by this court. Defendant, as the trier of fact, is in the best position to make such findings. Therefore, this court cannot and will not reverse, vacate or modify the Family Court order and this court has no authority to issue a new child support order. Plaintiff's remedy was to appeal the order, but he failed to do so.

Therefore, the court grants Defendant’s motion to dismiss Plaintiff’s complaint and denies Plaintiff’s motion for a temporary restraining order or preliminary injunction.

The court is not persuaded by Plaintiff’s arguments to the contrary. The court has considered any additional arguments raised by the parties which were not specifically discussed herein and the court denies any additional requests for relief not expressly granted herein.

As such, it is hereby

ORDERED that the court grants Defendant New York Family Court Support Magistrate Kevin Mahoney’s motion to dismiss Plaintiff Rahul Manchanda’s complaint, filed under motion sequence 001, and dismisses the complaint with prejudice; and it is further

ORDERED that the court directs the Clerk of the Court to enter judgment in favor of Defendant New York Family Court Support Magistrate Kevin Mahoney as against Plaintiff Rahul Manchanda, without costs to any party; and it is further

ORDERED that the court denies Plaintiff Rahul Manchanda’s motion for a temporary restraining order or preliminary injunction, filed under motion sequence 002.

This constitutes the decision and order of the court.


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10/24/2023
DATE

ERIKA M. EDWARDS, J.S.C.

CHECK ONE:

<input checked="" type="checkbox"/>	CASE DISPOSED		
<input type="checkbox"/>	GRANTED	<input type="checkbox"/>	DENIED
<input type="checkbox"/>	SETTLE ORDER		
<input type="checkbox"/>	INCLUDES TRANSFER/REASSIGN		

<input type="checkbox"/>	NON-FINAL DISPOSITION		
<input type="checkbox"/>	GRANTED IN PART	<input checked="" type="checkbox"/>	OTHER
<input type="checkbox"/>	SUBMIT ORDER		
<input type="checkbox"/>	FIDUCIARY APPOINTMENT	<input type="checkbox"/>	REFERENCE

APPLICATION:

CHECK IF APPROPRIATE: