IN THE FAMILY JUSTICE COURTS OF THE REPUBLIC OF SINGAPORE

[2026] SGFC 142

MSS1710/2025
INTAPP 22/2026

Between

YLW

… Applicant

And

YLX

…Respondent

JUDGMENT

[Family Law – Variation of Maintenance]

[Witnesses – Leave to give evidence by Video-Link]

Version No 3: 03 Nov 2026 (17:52 hrs)

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YLW
v
YLX

[2026] SGFC 142

Family Justice Courts – MSS1710/2025, INTAPP 22/2026
District Judge Carrie Chan

15 May 2026, 7 September 2026, 26 October 2026

28 October 2026

District Judge Carrie Chan:

Introduction

1 This is an application for leave under section 62A of the Evidence Act for the Applicant to provide evidence by video link. The central issue is whether the Applicant may be granted leave to give evidence from the United Kingdom ("UK") in her application to vary maintenance for the children in MSS 1710/2025 under section 72 of the Women's Charter.

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Background

2. The Applicant (the "mother") seeks leave to give evidence in her variation of maintenance proceedings by live video link from UK pursuant to section 62 of the Evidence Act and Practice Direction 132 of the Family Justice Courts Directions on the grounds that she is unable to travel to Singapore. The Respondent (the "father") opposes the application to give evidence remotely arguing that the mother is not unable but rather unwilling to travel to Singapore.

3. The parties were divorced on 28 April 2021 pursuant to a Decree issued by the Singapore Syariah Court. Under MSS 1455/2021, VO (MO) 11/2022, dated 12 January 2022, the father consented to provide maintenance at $6,000 for the two children (the "Consent Order"). On 21 November 2022, the MUIS Appeal Board granted the mother's application to relocate the two children of the marriage to the UK where they are citizens. At the time of the Consent Order, the two brothers were aged 8 and 5 respectively. They are currently 12 and 10 years old and reside with the mother in UK. The mother who is ordinarily resident in the UK is a home maker and sole carer for the children. The father resides in Singapore.

4. On 31 July 2025, the mother filed MSS 1710/2025 to vary the Consent Order. The mother seeks, amongst other things, an increase in the children's monthly maintenance from $6,000 to $11,000 and for the father to make payment for the children's school and enrichment fees directly to her.

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5. The following documents were filed:

a) Applicant's Affidavit in support of application affirmed on 29 January 2026.

b) Affidavit of Foreign Law affirmed on 17 February 2026.

c) Respondent's Affidavit affirmed on 16 March 20256.

d) Respondent's Submissions and Bundle of Authorities filed on 4 May 2026.

e) Applicant's Submissions and Bundle of Authorities dated 12 May 2026 2026

f) Applicant's Supplementary Affidavit affirmed on 28 July 2026.

g) espondent's Submissions dated 29 September 2026.

h) Applicant's Submissions dated 13 October 2026 (filed on 20 October 2026).

6. The mother has taken the necessary steps to comply with the Practice Directions 132(2) and (3) by obtaining advice from a foreign lawyer qualified to advise on the laws of England and Wales. The UK solicitor has confirmed in her Affidavit of Foreign Law affirmed on 17 February 2026 that UK authorities do not object to evidence given by the mother using video link.

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Applicable principles for giving evidence by video-link

7. The general principle is that a party seeking relief should be physically before the court to give evidence in person. This is not an inflexible requirement. Section 62A(1)(c) of the Evidence Act confers a discretion on the court to grant permission for a witness who is outside of Singapore to give evidence by live video link in court proceedings.

8. Under section 62(A)(2) of the Evidence Act, the court is to have regard to all the circumstances of the case including:

a) The reasons for the witness being unable to give evidence in Singapore.

b) Administrative and technical facilities available at the remote location where the witness is to give evidence.

c) Whether any party would be unfairly prejudiced.

9. In granting leave under section 62(A)(3) of the Evidence Act, the court has broad powers to prescribe who may be present with the witness and to impose other safeguards to ensure that proceedings remain fair.

10. The leading authority is ***Anil Singh Gurm v JS Yeh & Co and another*** [2020] 1 SLR 55 ("**Anil Singh Gurm").** In deciding whether to grant leave, the court is to examine the reasons for the witness being **unable** to give evidence in Singapore and this would be assessed on the facts of each case. The meaning of "unable" in section 62(A)(2) of the Evidence Act was considered in ***Anil Singh Gurm***. The Court of Appeal held at [30] that "The plain and ordinary meaning of the word "unable" implies a lack of choice on the witness's part. As such, the

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reason given by the witness for not travelling to Singapore must be one relating to circumstances outside his or her control." At [38] of the said case, the Court of Appeal went on further to state:

"This undoubtedly includes situations involving physical or legal inability, such as where the witness cannot travel to Singapore because of a medical condition or because of travel restrictions imposed by the authorities of his country of residence. It also includes situations where witnesses cannot travel because of real and substantial threats to their personal safety. We recognize that there would be situations where the line between choice and inability may not be clear. It would, however, be inappropriate for us to lay down a bright-line rule for this purpose since the question of whether a witness is unable to travel to Singapore is ultimately one that has to be assessed on the facts of each case."

11. In ***Anil Singh Gurm***, the Court of Appeal recognized that a party who has chosen to invoke the Singapore Court's jurisdiction has a stronger obligation to attend personally than a non-party witness. In particular, the fact that the witness stands to benefit from the application would increase the threshold to prove that the witness is unable to attend in Singapore physically for court proceedings.

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12. In the mother's Supplementary affidavit dated 28 July 2026, the mother's reasons have two components which relate to her **caregiving responsibilities** and **her financial position.**

a) She has school-going children in the UK in which she is their primary and sole caregiver. She provided details of her caregiver routine in which she would prepare the children for school, send them to school and pick them from school and other extra-curricular activities.

b) The younger child is also emotionally dependent on the mother for their daily care. Haris expects the mother to be present at bedtime and relies on her for his evening routine and emotional reassurance.

c) While she has family in the UK, her sister and brother-in-law in Surrey, her sister is not able to assume caregiving responsibilities for several reasons:

i. Her sister has her own child, and it would be difficult for her to manage her own child together with her children's school routines.

ii. In the afternoons and evenings, the children's collection arrangements involve different locations and timing making it impractical for her sister and brother-in-law to undertake the different school runs for the children.

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iii. Her sister provides support and care for her elderly mother-in-law who suffers from dementia and requires ongoing assistance and supervision.

iv. There is no one available who could consistently manage the children's school routines, transport arrangements, extracurricular activities, medical appointments and evening care during an extended period of absence.

d) In relation to the mother's financial position, she states that her savings have to be preserved to retain legal representation in the UK with fees likely to start at $40,000 pounds as legal proceedings have been commenced against her in the UK by the father. She would need to preserve he available funds as a buffer against legal costs in the UK proceedings, the risk of maintenance being stopped by the Respondent and the support the needs of the children and her own personal living expenses. A seven-night return trip to Singapore would costs approximately $4,165 pounds for airfare and hotel. This would represent a financial burden on her given her unemployed status and reliance on a depleting divorce settlement.

13. In the father's Submissions dated 29 September 2026, it is submitted that:

a) The mother has liquid balances in her bank accounts in excess of $90,000 pounds (about $155,000). This puts her in a comfortable income bracket despite not being gainfully employed.

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b) The default rule in Singapore is for the Applicant to be present in court to testify. In ***Islam Mohammad Rakibul v Nib Point Construction and another*** [2022] SGC 174 (***"Islam").*** The court considered the plaintiff's financial constraints. In the instant case, the mother is not in a position to say that she lacks the funds to travel.

b) The mother has received $814,000 in nafkah payments from the father. In addition, she receives monthly maintenance for the children, and the father makes payment of the children's school fees and other extra-curricular, enrichment, medical and other expenses as they arise.

c) The default rule is for the Applicant to be physically present in court to testify, citing ***Islam*** and ***Wang Xiaopu v Koh Mui Lee and others*** [2022] SGHC 54 ("***Wang Xiapu***").

d) In ***Wang Xiaopu***, the court considered the perspective of litigants seeking who come to court seeking justice to see that justice has been done – "Often the vindication litigants receive may not necessarily come from a favourable outcome, but rather from having had the opportunity of confronting the opposing party physically in court. In that sense the perception of litigants as to how the trial is conducted is also a consideration that can, and should, in my view be taken into account…".

e) The court in ***Islam*** applied the Court of Appeal's view in ***Anil Singh Gurm*** that a witness's status in the litigation would

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influence the threshold for granting leave to give evidence by video link. A witness who desires the fruits of litigation brought in a particular forum should generally be expected to attend proceedings in Court of that forum to obtain justice.

d) It should not be overlooked that the mother is the moving party in the proceedings, she is not merely a witness. The mother has invoked the jurisdiction of the court. Therefore, it is incumbent on her to make the necessary arrangements to testify in person.

Decision

14. Under the legal framework and applicable principles, the courts have imposed a stringent requirement for granting leave. The default rule is that physical attendance is required and witnesses cannot point to travel inconveniences to avoid travelling and attending court physically. The court is to be provided with sufficient reasons explaining why the witness is ***unable and not simply unwilling*** to attend to court in Singapore.

Has the mother proven that she is unable to attend physically in Singapore to give evidence?

15. Under section 62(A)(2) of the Evidence Act, the court is to have regard to all the circumstances of the case. Ultimately, the question whether a witness is unable to travel to Singapore is assessed on the facts of each case. I was mindful that the mother as the party who commenced MSS 1710/2025 would have to provide a stronger reason than a non-party witness would. I agree that the mother has sufficient liquid bank balance to travel to Singapore.

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16. As stated in [34] of ***Anil Singh Gurm***, "a textual analysis of section 62A reveals that its purpose is to provide the court with a broad discretion to receive oral evidence by video link". Overall, a holistic consideration of the circumstances of the case weighed the balance in favour of granting permission. I was mindful to apply the principle set out in ***Anil Singh Gurm*** to apply a higher threshold as the mother is the party commencing litigation and stands to derive a tangible benefit. Has the mother proven that she is unable to attend proceedings physically?

17. Carefully considering the affidavits, submissions and guiding considerations, I was satisfied under section 62(2)(a) of the Evidence Act that the mother was unable to attend proceedings in Singapore (as opposed to being unwilling) in the sense that there were circumstances outside of the mother's control for not being able to travel to Singapore. The current factual circumstances are:

a) The children who are of school going age 9 and 12 years, live with the mother who is the sole care giver.
b) The day-to-day care of the children involves:

- Prepares the children for school, takes older child to his bus pick-up point and accompanies younger child to school and collects both of them at the end of the day;
- On some Wednesdays, she travels by train to collect the older child directly from school which is a distance from their home.

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- She takes the older child to cricket training every Tuesday and attends his fixtures on Saturdays mostly with the younger child.

- She is the contact person for any medical issue or emergency pertaining to the children.

- The children are emotionally dependent on her. Haris depends on the mother for his bedtime and evening routine.

- Her sister and brother-in-law are not able to assist with the school drop offs and pick up as they have their own school going child who attends school at a separate location as the two children. Each child has their own routines.

- While the children have transport to take them to school (a minibus service), the children would need to be brought to the pick up point and collected from the drop off point.

c) There is no one else available to handle these care arrangements. The mother's sister and brother-in-law are her only family in the UK. They are unable to take over the children's care for an extended period because they have their own school going child and not able to take over the mother's school run arrangements. In addition, the mother's sister cares for her elderly mother-in-law who suffers from dementia and needs ongoing assistance and supervision.

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Administrative and technical facilities – safeguards to ensure fairness

18. At paragraph 17 of the father's skeletal submissions dated 29 September 2026, it is submitted that there is insufficient evidence to support that the administrative and technical arrangements are adequate.

19. The court has broad powers to prescribe safeguards to ensure that proceedings remain fair and that facilities are put in place to ensure that mother will be able to give video evidence and be cross-examined without hindrance. In granting permission, the court directs that it would be necessary for the mother to ensure the following safeguards:

a) She is to give evidence via the video conferencing platform, Zoom which is used by the Family Justice Courts for video link conferences.
b) She would provide her evidence from a private room.

c) There is no assistance. No person should be present with the mother while she gives evidence. Before evidence begins, the mother will have to use the camera to show the entire room and will not be permitted to use a virtual background.

d) Apart from the laptop used for hearing, the mother's telephone and messaging facilities should be switched off or placed beyond reach while she is giving evidence.
e) To ensure integrity of the evidence, there would be continuous video. The mother's face and upper body should remain visible throughout the hearing.

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f) The court is at liberty to revoke permission if the connection and circumstances compromise fairness.

g) All evidence will be scheduled at Singapore time.

Will permitting remote evidence in all the circumstances enable the court to determine the application fairly without causing unfair prejudice?

20. The question of unfair prejudice is an overriding concern when determining if leave should be granted. It is submitted that father would be prejudiced because his counsel would be deprived of the opportunity to cross-examine the mother in person. I accept that examination through a video link does not replicate every feature of examination in a courtroom and that the opportunity to physically confront an opposing party is a consideration which may properly be taken into account – ***Wang Xiaopu*** at [28] to [32].

21. The statutory question, however, is whether the Respondent would be unfairly prejudiced under section 62A(2) c of the Evidence Act. As the Court of Appeal explained in ***Anil Singh Gurm*** at [64] explained, the question is whether the prejudice is unfair in all the circumstances.

22. In the present case, the father's counsel is still able to cross-examine the mother. I was not provided with any particular aspect of the proposed cross - examination which would not be fairly and effectively conducted by video link. I have also considered the concern identified in ***Wang Xiaopu*** - that physical examination may have a value, but that consideration is not determinative in

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every case and would depend on a holistic assessment of the factual circumstances.

23. In ***Anil Singh Gurm*****,** the prejudice was balanced against what would happen if leave was refused. If leave was not granted, the mother's established child caring responsibilities would materially impede her ability to continue her variation application. On the balance, I am satisfied that granting leave to the mother to testify remotely subject to appropriate safeguards, does not cause unfair prejudice to the father.

24. With thanks to counsels for their helpful submissions, each party to bear their own costs.

Carrie Chan
District Judge

Ms Nur Amalina Binte Kamal (IKA LAW LLC) for the Applicant;
Mr Ramachandran Shiever Subramanium (GRAYS LLC) for the Respondent.

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