

Re O (Family Appeals: Management)

[1998] 1 FLR 431

07/11/1997

Court

Court of Appeal

Facts

The father of two children made an application for a residence order which was dismissed at first instance, although leave to appeal was granted by the trial judge. In dismissing the appeal as being hopeless, the Court of Appeal made a number of observations relating to appeals in family cases generally.

Held

Per curiam: Any appeal that does not require leave, either because there is an appeal as of right or because leave was granted in the court below, is referred to the supervising Lord Justice as soon as notice of appeal and a transcript of the appealed judgment are available. Since the supervising Lord Justice reads that and any other material necessary to enable directions to be given for the preparation and determination of the appeal, the judge at first instance who grants leave does not relieve the appellate court of the need to make a thorough survey of the papers at an early stage. Exceptionally, where in a family case a difficult point of law or principle was raised, the judge at first instance may well grant leave to appeal himself. Where, however, the exercise of discretion was challenged, it would generally be helpful if the judge left to the Court of Appeal the decision as to whether leave should be granted.

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