

IN THE COURT OF APPEALS OF THE STATE OF NEVADA

DIPESH S. BANKER,
Petitioner,

vs.

THE EIGHTH JUDICIAL DISTRICT
COURT OF THE STATE OF NEVADA,
IN AND FOR THE COUNTY OF
CLARK; AND THE HONORABLE AMY
MASTIN,

Respondents,

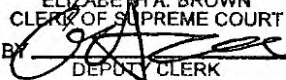
and

MELISSA BANKER,
Real Party in Interest.

No. 89766-COA

FILED

FEB 18 2025

ELIZABETH A. BROWN
CLERK OF SUPREME COURT
BY  DEPUTY CLERK

*ORDER DENYING PETITION FOR
WRIT OF MANDAMUS OR PROHIBITION*

Dipesh S. Banker filed a petition for a writ of mandamus or prohibition seeking to challenge the jurisdiction of the family court to enforce a property settlement agreement.

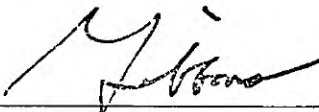
A writ of mandamus is available to compel the performance of an act that the law requires as a duty resulting from an office, trust, or station or to control an arbitrary or capricious exercise of discretion. NRS 34.160; *Int'l Game Tech., Inc. v. Second Jud. Dist. Ct.*, 124 Nev. 193, 197, 179 P.3d 556, 558 (2008). This court may issue a writ of prohibition to arrest the proceedings of a district court exercising its judicial functions when such proceedings are in excess of the district court's jurisdiction. NRS 34.320; *Smith v. Eighth Jud. Dist. Ct.*, 107 Nev. 674, 677, 818 P.2d 849, 851 (1991). Mandamus and probation are extraordinary remedies, and it is within the discretion of this court to determine if a petition will be considered. *Smith*, 107 Nev. at 677, 818 P.2d at 851. Petitioner bears the burden to show that extraordinary relief is warranted, and such relief is proper only when there

is no plain, speedy, and adequate remedy at law. *Pan v. Eighth Jud. Dist. Ct.*, 120 Nev. 222, 224, 228, 88 P.3d 840, 841, 844 (2004).

Based on our review of the documents before us, we conclude Dipesh has not demonstrated that our extraordinary intervention is warranted. *Id.* at 228, 88 P.3d at 844. Dipesh failed to provide in his appendices the property settlement agreement that is the focus of this writ petition. *See* NRAP 21(a)(4). Additionally, a review of the record presented fails to establish that the family court has made a final decision concerning jurisdiction as to enforcement of the property settlement agreement; the court only set an evidentiary hearing and stated that it wanted evidence concerning, among other things, the parties' intent surrounding the property settlement agreement and the decision not to have it merge with the divorce decree, as well as their intent as to enforcement of the agreement's provisions. As such, we conclude that Dipesh has failed to demonstrate that writ relief is warranted. *See Pan*, 120 Nev. at 228, 88 P.3d at 844. Accordingly, we deny the petition. *See* NRAP 21(b)(1).

It is so ORDERED.


_____, C.J.
Bulla


_____, J.
Gibbons


_____, J.
Westbrook

cc: Hon. Amy Mastin, District Judge, Family Division
Kelleher & Kelleher, LLC
GGRM Law Firm
Jones & LoBello
Eighth District Court Clerk