

IN THE HIGH COURT OF SOUTH AFRICA
FREE STATE DIVISION, BLOEMFONTEIN

Case no: 2413/2023

Reportable: YES/NO

Of Interest to other Judges: YES/NO

Circulate to Magistrates: YES/NO

In the matter between:

M[...] D[...] P[...]

Applicant

and

C[...] J[...] D[...] P[...]

Respondent

CORAM: **PR CRONJÉ, AJ**

HEARD ON: **15 JUNE 2023**

DELIVERED ON: **22 JUNE 2023**

JUDGMENT BY: **P R CRONJé, AJ**

This judgment was handed down electronically by circulation to the parties' representatives by email, and release to SAFLII. The date and time for hand-down is deemed to be 12h30 on 22 June 2023.

[1] I heard the matter on 15 June 2023 but as I had other applications to attend to on that date too, and as I sought assistance from the parties as set out below, I reserved judgment.

- [2] The Applicant brought a Rule 43 application for relief *pendente lite*. She *inter alia* sought an order for delivery of movables contained in an Annexure "D" to her Affidavit.
- [3] I enquired from Mr Louw, who appeared for the Applicant, whether such an order could be made if there is no tender by the Respondent. Mr Louw opined that it could be done.
- [4] I was not convinced and suggested that the parties engage to see whether an agreement on the movables in the list could be reached. I requested that the parties attempt to revert to me with a list by 10:00 on 20 June 2023, failing which I will issue my judgment.
- [5] I received a letter from the Respondent's attorneys, dated 20 June 2023, only on 21 June 2023. The Respondent indicates therein what assets are his. He also indicated that there are more than one of some items.
- [6] I perused the letter and the annexure and my order reflects what I believe to be the tender by the Respondent.
- [7] I make the following order.

ORDER

1. The full parental responsibilities and rights in respect of the minor children born out of the marriage, as envisaged in Section 18(2)(a) of the Children's Act, Act 38 of 2005, are awarded to both parties.
2. The primary care and residency of the minor children are awarded to the Applicant.
3. The specific parental rights and responsibilities with regard to contact with the minor children as contemplated in Section 18(2)(b) of the

Children's Act, Act 38 of 2005 are awarded to the Respondent in the following manner:

- 3.1 the right to take the minor children with him on alternate weekends from 17:00 on a Friday until 17:00 on a Sunday;
 - 3.2 public holidays shall alternate between the parties;
 - 3.3 the right to have the minor children with him for alternative short school holidays, provided that a long school holiday be divided equally on the basis that the minor children will spend an alternative December holiday for Christmas with an alternative party;
 - 3.4 the right to take the minor children with him on the children's birthdays and his birthday for at least 3 hours if these times do not coincide with a normal contact period;
 - 3.5 the right to take the minor children with him on Father's Day from 09:00 – 17:00 if this day does not coincide with a normal contact weekend;
 - 3.6 reasonable telephonic contact.
4. The Applicant shall have the right to take the minor children with her on the children's birthdays and her birthday for at least 3 hours if these times do not coincide with a normal care period.
 5. The parental responsibilities and rights with regards to the guardianship of the minor children as contemplated in sections 18(2)(c) and 18(3) of the Children's Act, Act 38 of 2005 are awarded to the parties jointly.
 6. The Respondent shall make payment *pendente lite* to the Applicant in respect of the minor children at a rate of R3 000.00 per month per child, the first payment to be made on or before 1 July 2023 and thereafter on or before the 1st day of every successive month.

7. The Respondent shall pay the bond instalments of the property known as No. [...] H[...] Avenue, Hospitaalpark, Bloemfontein.
8. Respondent shall pay 50% of the home school registration and book fees.
9. In respect of the items on Annexure "D", the Respondent shall, *pendente lite*, make the items available to the Applicant, with the exclusion of items 3, 4, 12, 15, 19, 30, 31, 38, 40, 49, 50, 57, 71, 75, 76, 91, 98, 103, 111, and 125.
10. In respect of items 3, 4, 12, 50, 57, 91, 98 and 103, half shall be made available to the Applicant.
11. In respect of item 19, the Respondent shall make 3 available to the Applicant.
12. The Respondent shall make a contribution towards the Applicant's legal costs of R5 000.00 in instalments of R500.00 per month, the first payment to be made on or before 1 August 2023 and thereafter on or before the 1st day of every successive month.
13. The costs of this application shall be costs in the main action

P R CRONJÉ, AJ

On behalf of the Applicant:

Adv M C Louw

Instructed by:

Honey Attorneys

BLOEMFONTEIN

On behalf of the First Respondent:

Adv. G J Steenkamp

Instructed by:

Hendre Conradie Attorneys

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