

**IN THE HIGH COURT OF SOUTH AFRICA
GAUTENG DIVISION, PRETORIA**

CASE NO: 17095/2024

(1) REPORTABLE: NO

(2) OF INTEREST TO OTHERS JUDGES: NO

(3) REVISED: NO

DATE: 2 October 2024

SIGNATURE

In the matter between:

J.C

APPLICANT

and

C.A.J.C

RESPONDENT

JUDGMENT

AMIEN AJ

Introduction

[1] This is an application in terms of Rule 43 of the Uniform Rules of Court for interim relief pending a divorce action between the parties.

[2] The interim relief being claimed relates to the primary residence and contact of a three-year old minor child born of the marriage between the parties; maintenance *pendente lite* for the Applicant and the minor child; and a contribution to the Applicant's costs in respect of the matrimonial action.

[3] The parties were married to each other on 14 December 2019 out of community of property with the exclusion of the accrual system.

[4] The parties are in the process of divorce and the pleadings have closed.

[5] The applicant brought an urgent application in terms of Rule 6(12) to determine the primary residence and contact of the minor child, which urgency is disputed by the Respondent.

Urgent application

[6] The Applicant moved out of the marital home in Benoni on 20 April 2024 and took the child to live with her and her parents in Alberton.

[7] The Applicant works in Pretoria and commutes daily to work and back.

[8] Since 20 April 2024, the Respondent exercised certain rights of contact, which excluded sleepovers. The Respondent would only take the minor child for day visits.

[9] This changed on 10 and 13 May 2024 when the Respondent removed the minor child and kept her overnight with him, even though this was against the Applicant's wishes. The Applicant is of the view that the sleepovers traumatised the child to the extent that the child suffers separation anxiety, struggles to sleep, and displays 'acting out' behaviour.

[10] According to the Applicant, the 'acting out' behaviour manifests in the following ways:

10.1. The child cries continuously when the Applicant fetches her from crèche.

10.2. The child clings to her mother.

10.3. The child refuses to sleep.

10.4. The child informed the Applicant that it was hard for her to be separated from the Applicant for two overnight visits.

[11] The Applicant is of the view that considering the child's age and stage of development, she is not yet ready for sleepovers.

[12] The Applicant contends that the minor child is attached to her as the primary caregiver and is not comfortable with being removed from her for long periods including sleeping away from her.

[13] The Respondent's view is that it is normal for a child to miss her parent while being away from her and that an expert is needed to assist the parties to determine what would be in the best interests of the minor child regarding primary residence. At the same time, the Respondent denies that the child is traumatized by sleeping over at his place.

[14] The Respondent claims that he had sleepover contact with the minor child every alternate weekend as agreed between himself and the Applicant, and that this changed when the divorce summons was served on the Respondent. Applicant has made no response to this averment.

[15] The Respondent would like the residence of the minor child to be rotated weekly on an equal basis between the parties.

[16] The Applicant does not agree with the Respondent's proposition in para 15 above. She seeks interim primary residence of the minor child subject to the Respondent's rights of contact, some of which are set out below:

16.1. Until the minor child turns four:

16.1.1. Rights of removal on every Wednesday (alternatively on any other day of the week as agreed upon by the parties, subject to consistency with the day chosen) from 14h00 to 17h00.

16.1.2. Rights of removal on every alternative weekend from Saturday at 09h00 to Sunday at 17h00, without any sleepovers.

16.1.3. Rights of removal on Father's Day. Similarly, the Applicant shall be entitled to remove the minor child on Mother's Day.

16.1.4. Rights of removal for half of the available time on the minor child's birthday.

16.1.5. Rights of removal on every alternative public holiday from 09h00 to 17h00, with Christmas to be rotated between the parties.

16.1.6. Rights of removal on the Respondent's birthday from 09h00 to 17h00. Similarly, the Applicant shall be entitled to keep the minor child with her on her birthday.

16.1.7. The right to make daily contact with the minor child on the days that the Respondent has no physical contact with the minor child, such telephonic contact to take place between the hours of 17h00 and 19h00.

16.2. The Applicant also proposes contact for the minor child with the Respondent for the period when the child is between four and five years, then between five and seven years, and then from seven years onwards. During each period, the Applicant recommends a phasing-in of sleepovers for the minor child with her father.

[17] The Applicant further contends that the Respondent is an uninvolved parent, does not know how to care for their daughter, and drinks excessively over the weekends. In fact, the Applicant indicates that the Respondent was caught for drunken driving on 6 December 2023. The Respondent denies that he has a drinking problem or that he was arrested for drunk driving.

[18] The Applicant filed a supplementary affidavit, which she asked to be accepted under Rule 43(5) of the Uniform Rules of Court. The Court admitted the supplementary affidavit because it mainly deals with the Respondent's bare denial that he consumes excessive amounts of alcohol especially over the weekends.

[19] The Applicant provided a screenshot of a WhatsApp chat between herself, and the Respondent dated 6 December 2023, as proof of the drunken driving arrest. In the chat, the Respondent suggests that he paid some people a bribe, but the chat does not confirm to whom the bribe was paid and in respect of what. The chat cannot therefore be taken as tangible evidence of an arrest.

[20] In her supplementary affidavit, the Applicant also addresses the results of the pathology tests performed by Ampath on the Respondent. Blood was collected from the Respondent on 13 March 2024, and the results indicated a Gamma- Glutamyl Transferase (GGT) reading of 72. The Applicant helpfully provided a brochure containing a summary of how the GGT test results can be interpreted. One of the uses of the GGT test is to test for alcohol use disorder or to monitor compliance with treatment for alcohol abuse. The normal range for GGT seems to be pinned at 5 to 40 units per litre. Therefore, the Respondent's result was much higher than what is considered normal.

[21] The brochure provided by the Applicant indicates that if the GGT test result is high, it could mean excessive alcohol consumption could be the cause. The brochure reads:

“Even small amounts of alcohol consumed within 24 hours of a GGT test can increase your GGT levels. However, people who frequently drink significant amounts of alcohol commonly have higher levels of GGT than people who consume less than two to three drinks per day or drink heavily on occasion.

[22] The above seems to indicate that the Applicant's contention that the Respondent has a drinking problem could be true. The Respondent's blood was drawn on 13 March 2024, which was a Wednesday. This means that he drank

excessively on one or more weekdays or even the weekend before his bloods were taken.

[23] According to the Applicant, the Respondent indicates that he intends to keep the minor child overnight for weekend visits despite her protestations. This is the main reason for the urgent application because of the Applicant's belief that the overnight stays traumatise the minor child. However, there was no indication that the Respondent had done so other than on 10 and 13 May 2024, which was three (3) months preceding this hearing.

[24] The Court is therefore not persuaded that the application is an urgent one.

Interim care and contact of the minor child

[25] Turning to the Applicant's claim for primary residence subject to the Respondent's right of contact sans sleepovers, the main reason that the Applicant is not comfortable with the minor child having sleepovers with her father is that she believes that sleepovers traumatise the minor child.

[26] The only evidence placed before this Court to confirm the traumatic effect of the minor child's sleepovers with the Respondent was that of the Applicant's affidavit. Also, the Respondent denies that the sleepovers traumatise the minor child and provides the confirmatory affidavit by his domestic worker to support his denial.

[27] However, the Court cannot ignore the power imbalance that usually exists in the employer / employee (in this case domestic worker) relationship and that the domestic worker may have felt obliged to support her employer in his opposition to this application.

[28] Furthermore, nothing has been placed before this Court to suggest why the Applicant would lie about the minor child being traumatised by sleepovers. In fact, given the child's tender age, it is quite plausible that the child is attached to the mother and experiences anxiety about sleeping away from her comfort zone.

[29] As upper guardian of the minor child and being directed by section 28 of the Constitution to ensure that the best interests of the minor child are of paramount importance and must be protected, it is the view of this Court that sleepovers at the minor child's father's residence is not in the best interests of the minor child.

[30] Furthermore, given this Court's view that the Respondent may have a drinking problem, any contact that the Respondent has with the minor child should be supervised.

[31] Although the Applicant has not asked for supervised contact between the Respondent and the minor child, and I am not sure why this was not asked for, given the circumstances involving alcohol consumption by the Respondent, it would be in the best interests of the minor child for the Respondent's contact to be supervised by a responsible adult identified by the Applicant.

[32] The Court is therefore inclined to grant the Applicant's claim for interim primary residence of the minor child subject to the Respondent's rights of supervised contact without sleepovers.

[33] It is not necessary for this Court to differentiate between the different age periods of the minor child for the purpose of the Respondent's contact with the child. The order in respect of para 32 above will apply until the finalisation of the divorce process, at which time the trial court may make a different order or add to the order if necessary.

[34] In light of the above (and it goes without needing to say) that shared residence of the minor child between the parties is not a suitable option.

Appointment of a parental co-ordinator

[35] The Applicant proposes that a parental co-ordinator be appointed and nominates Family Reconnect in the capacity of parental co-ordinator.

[36] The Respondent contends that the above is premature because the parties dispute their parental rights and responsibilities and that instead, a forensic psychologist should be appointed to undertake a forensic assessment.

[37] In *TC v SC*,¹ my learned brother Davis J (AJ at the time of writing his judgment) described the role of a parental co-ordinator as implementing a parenting plan that has been made an order of court.

[38] Given the conflictual nature of the parties' relationship, especially regarding their views about their parental rights and responsibilities, this Court will make an interim order regarding care and contact of the minor child in accordance with para 84.8. below, after which a suitably qualified person should assess the implementation of the interim order and if necessary, draft a parenting plan to be made an order of court.

[39] A parental coordinator is nevertheless still required to oversee the implementation of this Court's order relating to the care and contact of the minor child.

[40] Section 33(5)(a)-(b) of the Children's Act 38 of 2005 identifies one of the following parties as appropriately placed to draft a parenting plan: family advocate, social worker or psychologist. Alternatively, a mediation process facilitated by a social worker or other suitably qualified person should be initiated to prepare a parenting plan.

[41] This accords with section 33(2) of the Children's Act, which provides:

"If the co-holders of parental responsibilities and rights in respect of a child are experiencing difficulty in exercising their responsibilities and rights, those persons, before seeking the intervention of a court, must first seek to agree on a parenting plan determining the exercise of their respective responsibilities and rights in respect of the child."

¹ 2018 (4) SA 530 (WCC) para 71.

Enrolment of the minor child in a new school

[42] The parties used to live in Benoni while they were still living together, and the minor child was enrolled in a crèche there.

[43] Presently, the Applicant lives with her parents in Alberton and works in Pretoria. She therefore commutes between her parents' place in Alberton and her workplace in Pretoria. The Applicant would like to relocate to Pretoria and move the child into a pre-school in Moreleta Park in Pretoria, which is close to her workplace and the accommodation that the Applicant has identified for them to live in. The Respondent is opposed to this and argues that the relocation should be investigated by an expert.

[44] The Respondent advises that he was not consulted about the above and was merely informed by the Respondent that she would be moving to Pretoria and would have to move the minor child to a school there.

[45] The Respondent brought the Court's attention to Section 31 of the Children's Act, which makes provision for major decisions that impact on parental rights and responsibilities and reads:

“(1) (a) Before a person holding parental responsibilities and rights in respect of a child takes any decision contemplated in paragraph

(b) involving the child, that person must give due consideration to any views and wishes expressed by the child, bearing in mind the child's age, maturity and stage of development.

(b) A decision referred to in paragraph (a) is any decision—

(i) in connection with a matter listed in section 18(3)(c);

(ii) affecting contact between the child and a co-holder of parental responsibilities and rights;

(iii) regarding the assignment of guardianship or care in respect of the child to another person in terms of section 27; or

(iv) which is likely to significantly change, or to have an adverse effect on, the child's living conditions, education, health, personal relations with a parent or family member or, generally, the child's wellbeing.

(2) (a) Before a person holding parental responsibilities and rights in respect of a child takes any decision contemplated in paragraph (b), that person must give due consideration to any views and wishes expressed by any co-holder of parental responsibilities and rights in respect of the child.

(b) A decision referred to in paragraph (a) is any decision which is likely to change significantly, or to have a significant adverse effect on, the co-holder's exercise of parental responsibilities and rights in respect of the child.

[46] Section 31(2) read with s31(b)(iv) appear to be at issue here.

[47] The relevant provisions of section 31 requires that due consideration be given to the wishes and views of a co-parent when the other co-parent makes a decision that is *likely to significantly change the minor child's living conditions*, education, health, personal relations with a parent or a family member, or the child's well-being in general, and if the decision would likely *significantly change or adversely affect the co-parent's exercise of parental responsibilities and rights*.

[48] The key questions that arise from section 31 that are relevant in this case are:

48.1. Was 'due consideration' given to the Respondent's view that the minor child should not be placed in a school in Pretoria and that an expert should be appointed to assess whether the child should be moved to a different school?

48.2. Would the decision to relocate the minor child to a school in Pretoria significantly change or adversely affect the child's living conditions, education, health, personal relations with a parent or a family member, or the child's well-being in general?

48.3. Would the decision significantly change or adversely affect the Respondent's exercise of his parental rights and responsibilities?

[49] To determine if 'due consideration' was given, one must first consider the second and third questions.

[50] With regard to the second question, while the decision would not adversely affect the child's living conditions, it would significantly change the child's living conditions because the child would be relocated to a new residence and a new school.

[51] The third question involves a consideration of the Respondent's traveling time and distance between Benoni and Alberton, which is what he would have been doing at the date of the hearing, and his traveling time and distance between Benoni and Pretoria.

[52] The distance between Alberton and Benoni is about 49.3km and would take the Respondent about 38 minutes to reach Alberton from Benoni. The distance between Benoni and Pretoria is about 53.1km and would take the Applicant about 47 minutes to reach Pretoria from Benoni. The approximate difference in time that it would take the Respondent to drive to Pretoria instead of Alberton is about nine (9) more minutes.

[53] At the time of the hearing, the Applicant was driving a daily distance of about 72.5km from Alberton to Pretoria, which would have taken her about 54 min on a one-way route. These calculations do not take traffic congestions into account.

[54] The Applicant considered the above factors when she made her decision to move the minor child to a school in Pretoria so that the child could live with her as

the primary caregiver and go to school close to where the Applicant works and would live. The Respondent's insistence that an expert should first be appointed to assess where the child should school is unreasonable. This could take a considerable amount of time and would continue to burden the Applicant with additional driving time and distance. In contrast, the relocation would involve a minor inconvenience to the Respondent who would have to travel just nine more minutes to fetch and drop off the minor child.

[55] It should also be noted that the Applicant did not act on her decision. She is waiting for this Court's decision.

[56] Under the circumstances, it is my view that the Applicant gave due consideration to the Respondent's view but still thinks it is best for her and the minor child to live in Pretoria and to place the child in a school there. Given the practicalities of the situation, the Applicant does not have much of a choice but to move the child with her to Pretoria.

[57] Should I be wrong in my view that due consideration was given to the Respondent's views about the relocation of the minor child to a new school in Pretoria, it is also my view that the section 31(2) requirement could nevertheless be superseded by the best interests of the minor child. As upper guardian of the minor child, this Court is obliged to ensure that the minor child's best interests are protected. The best interests of the minor child in this case will be protected with the Applicant moving to new accommodation in Pretoria and placing the child in a pre-school that is close to the Applicant's place of work and home. With the additional time that would be saved from not having to drive great distances in the morning and evening, the minor child would benefit from the Applicant having more time to spend with the child. This can only be in the best interests of the minor child.

Maintenance pendente lite

[58] The Applicant contends that for her to relocate to Pretoria, the Respondent needs to pay *interim maintenance* for her and the minor child.

[59] While the parties are still married to each other, they owe a legal duty of support to one another and towards their minor child.

[60] To determine maintenance *pende lite*, this Court must consider the standard of living of the parties during the marriage, the Applicant's actual and reasonable needs, and the Respondent's means.²

[61] The Applicant is a payroll administrator, and her net monthly income is R13 408.25. Should the Applicant relocate to Pretoria, she estimates the reasonable maintenance needs for her and the minor child to be R36 692.00 per month. The Applicant asks that the Respondent be ordered to pay the sum of R23 285.00 as maintenance for her and their minor child.

[62] The Respondent is an accountant and businessman. His financial disclosure form indicates that he owns: a 100% business interest in Maranata Beleggings and is owed R278 485 by the business; 100% business interest in Taxsolve (an accounting firm) and is owed R14 665.00 by the business; 100% business interest in Cloud Payroll and is owed R119 950.00 by the business; and 100% business interest in Lakefield Plant Hire and is owed R432 619.00 by the business. For all these businesses, the Respondent claims that the total current value of what is owed to him by the businesses is R1 042 399.00.

[63] At the same time, the Respondent claims that he only earns a net salary of R43 872.56 from TaxSolve.

[64] The Respondent lists his total monthly expenditure as R42 979.97 per month, which includes the minor child's school fees and extra-curricular activities. The Respondent continues to live in the marital home, in respect of which he pays the bond instalment, rates, taxes, and municipal account. The Respondent also pays the medical aid premiums for the Applicant and the minor child, and short-term insurance for the Applicant's motor vehicle. The Respondent contends that he further pays for the minor child's winter and summer clothing when necessary.

² *Taute v Taute* 1974 (2) SA 675 at 676D-G.

[65] The Respondent indicates that he is prepared to continue paying the above expenses in respect of the minor child should a shared residence regime be adopted. This is a disingenuous offer by the Respondent because it suggests that he is only willing to cover the minor child's expenses if he gets something out of the deal. He is currently paying for these expenses. I see no reason why he should not continue to do so. Furthermore, payment of maintenance for the minor child is not conditional on the Respondent's care and/or contact rights.

[66] Despite the business interests listed above and the amounts provided by the Respondent in respect of his net salary from TaxSolve and his expenses, the Respondent claims that he has just over R5 000.00 left at the end of any given month and tenders that amount per month as rehabilitative spousal maintenance for the Applicant for a period of six (6) months from the date that the divorce is granted.

[67] Yet, if one deducts the Respondent's listed expenses from his disclosed net income (R43 872.56 – R42 979.97), he should only have a total of R892.59 left at the end of a month. How then is the Respondent able to afford to pay the Applicant an amount of R5 000.00 per month in respect of spousal maintenance?

[68] In light of the above, the Court is of the view that the Respondent is being less than candid about his actual income while the Applicant remained consistent about hers. From the Respondent's declared business interests, it appears that he can afford to pay much more than just R5 000.00 per month.

[69] The Applicant contends that her standard of living has dropped since she and the Respondent separated from each other. The Applicant is not asking to be maintained at the same standard of living that she became accustomed to during the marriage. The fact that she is planning to move into an apartment / townhouse confirms this.

[70] The contribution that the Applicant is thus asking for from the Respondent towards her and the minor child's maintenance in the amount of R23 285.00. is more than reasonable.

Matrimonial property

[71] The Applicant requests the delivery of certain furniture and household effects listed in Annexure 'H' to her founding affidavit, failing which Respondent should pay her R65 000.00 as relocation costs.

[72] The Applicant contends that return of the household items or payment of their estimated value is part of her maintenance claim. I disagree with this view. Maintenance payments are meant to provide subsistence to cover expenses related to food, clothing and accommodation. The latter relates to expenses involving rent or mortgage bond payments.

[73] In contrast, household items form part of the matrimonial property of the parties.

[74] Respondent does not wish to give the household items to the Applicant but is willing to pay her R65 000.00 for them even though he initially offered R100 000.00 in his with prejudice settlement offer.

[75] It is bizarre that the Respondent claims that he cannot afford to pay more than R5 000.00 per month as spousal maintenance, but he is willing to give the Applicant a significant sum, and a much larger one, than the Applicant herself has asked for, in lieu of the household items requested by Applicant. This is a further indication that the Respondent is not being forthright about his net worth.

Contribution towards the Applicant's costs of the matrimonial action

[76] A contribution to the costs of litigation is meant to enable the parties to litigate on an equal footing so that their right to a fair hearing is protected.³

³ *AF v MF* 2019 (6) SA 422 (WCC) para 41.

[77] In *Nicholson v Nicholson*,⁴ my learned brother, Wunsh J, held that to determine if the Applicant has a right to a contribution to her legal costs, the means of the Applicant and Respondent must be determined, the scale upon which the Respondent is litigating and the scale upon which the Applicant intends to litigate must be ascertained, and the complexity of the matter must be considered.

[78] It is clear from the Applicant's financial disclosure that she cannot afford to pay for the legal costs of a divorce action from her own pocket.

[79] The Applicant advises that her estimated bill of costs up to day one of the divorce trial is R436 865.92. The Applicant seeks a contribution to these costs in the amount of R200 000.00. This is for the costs of senior counsel.

[80] The Respondent refuses to make any contribution to the Applicant's legal costs on the basis that she refused to accept his settlement proposal; his legal representatives are cheaper than hers; and he cannot afford to pay for the Applicant's legal costs. The Respondent avers that his estimated legal costs are R197 786.33.

[81] In light of the Respondent's financial disclosures, only one of the Respondent's reasons is accepted by this Court namely, that he appointed less expensive counsel.

[82] The nature of the divorce action is not of such a complex nature to warrant the appointment of senior counsel.

[83] A reasonable contribution by the Respondent to the Applicant's legal costs would therefore be R100 000.00 up to day one of the divorce trial.

Order

[84] In the result, the following order is made:

⁴ 1998 (1) SA 48 (W) at 50C-E.

84.1. The application for urgency is dismissed.

84.2. The Respondent is ordered to pay maintenance to the Applicant in respect of her and the parties' minor child the amount of R23 285.00 (Twenty-three thousand and two hundred and eighty-five rand) per month. The first payment is to commence on 15 October 2024 and thereafter on/before the first (1st) of every month.

84.3. The Respondent is ordered to retain the Applicant and the minor child as beneficiaries on his medical aid and to maintain them on the same plan with the same benefits that they enjoyed previously while the parties were still living together. Additional to the payment of the medical aid premiums, the Respondent shall be responsible for payment of all reasonable medical expenses of the Applicant and the minor child that are not covered by the medical aid fund.

84.4. The Respondent is ordered to pay the following expenses in respect of the Applicant and/or the minor child directly to the respective service providers:

84.4.1. The minor child's pre-school fees, inclusive of any registration fee.

84.4.2. The minor child's extra-mural activities.

84.4.3. The medical aid fund premium in respect of the Applicant and the minor child, and their reasonable medical expenses that are not covered by the medical aid fund.

84.4.4. The short-term insurance of the Hyundai I20 motor vehicle used by the Applicant.

84.5. The Respondent is ordered to continue payment of the monthly bond instalment, municipal levies and municipal charges in respect of the parties' former matrimonial home, situated at 1[...] F[...] Street, Northville, Benoni, Gauteng Province.

84.6. The Respondent is ordered to pay the sum of R65 000.00 (Sixty five thousand rand) to the Applicant as her relocation costs to Pretoria.

84.7. The Respondent is ordered to make an initial contribution of R100 000.00 (One hundred thousand rand) towards the Applicant's legal costs, such amount to be paid in equal monthly instalments of R25 000.00 (Twenty-five thousand rand) each, payable on/before the first (1st) day of every month, except for the first payment, which is to be made on/before 15 October 2024.

84.8. Primary residence of the minor child is awarded to the Applicant subject to the Respondent's right of supervised contact, which includes the following:

84.8.1. Rights of removal on every Wednesday (alternatively on any other day of the week as agreed upon by the parties, subject to consistency with the day chosen) from 14h00 to 17h00.

84.8.2. Rights of removal on every alternative weekend from on a Saturday from 09h00 until 17h00 and Sunday from 09h00 until 17h00, without any sleepovers.

84.8.3. Rights of removal on Father's Day. Similarly, the Applicant shall be entitled to remove the minor child on Mother's Day.

84.8.4. Rights of removal for half of the available time on the minor child's birthday.

84.8.5. Rights of removal on every alternative public holiday from 09h00 to 17h00, with Christmas to be rotated between the parties.

84.8.6. Rights of removal on the Respondent's birthday from 09h00 to 17h00. Similarly, the Applicant shall be entitled to keep the minor child with her on her birthday.

84.8.7. The Applicant must identify a suitable adult person to supervise the Respondent's right of contact with the minor child.

84.8.8. The right to make daily contact with the minor child on the days that the Respondent has no physical contact with the minor child, such telephonic contact to take place between the hours of 17h00 and 19h00.

84.9. A psychologist or social worker that the parties agree on must be appointed to assess the implementation of the order referred to in para 84.8. above after one (1) month of the date of this order and ensuring that the best interests of the minor child are protected. Should the psychologist or social worker deem it necessary to change the order referred to in para 84.8. above, she or he must draft a parenting plan for submission to court to be made an order of court.

84.10. Until the assessment referred to in para 84.9. above is finalised, Family Reconnect is to be appointed as a parental coordinator to oversee the implementation of the order referred to in para 84.8. above.

84.11. The cost of the psychologist or social worker and Family Reconnect referred to in paras 84.9. and 84.10. above is to be borne by the Respondent.

84.12. Each party to bear their own costs in this application.

W AMIEN
ACTING JUDGE OF THE HIGH COURT

APPEARANCES:

Counsel for the Appellant: I Vermaak SC
Instructed by: Arthur Channon Attorneys

Counsel for the Respondent: N Smit
Instructed by: Albisini Attorneys

Judgment number: 17095/2024
Date heard: 21 August 2024
Date of judgment: 2 October 2024

This judgment has been delivered by uploading it to the court online digital data base of the Gauteng Division, Pretoria and by e-mail to the attorneys of record of the parties. The deemed date and time for the delivery is 2 October 2024.