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

CASE NO: CIVIL APPEAL: A 63/2024

(1) REPORTABLE: NO

(2) OF INTEREST TO OTHER JUDGES: NO

(3) REVISED: Yes

DATE 13 November 2024

SIGNATURE

In the matter between:

G[...] **P[...]**

Appellant

and

E[...] **P[...]**

Respondent

JUDGMENT

(The matter was heard in open court on 20 August 2024. Having heard the appellant in person and perusing the record, judgment was reserved. The reserved judgment was handed down by uploading the judgment onto the electronic file of the matter on Caselines. The date of the judgment is deemed to be the date of uploading thereof onto Caselines)

BEFORE: HOLLAND-MUTER & MAKHOBA J

[1] The appellant and the respondent are brother and sister. The appellant seeks a protection order, the underlying cause to be an alleged financial agreement between them. This agreement was allegedly entered into between them before he left Heidelberg (Gauteng) to Richmond during February 2022.

[2] The appellant avers that he applied for the protection against her harassment, psychological and economic abuse and controlling behaviour mostly through secret involvement in his life.

[3] He further applies for restitution of inherited funds he needs for his basic survival. He alleges that she controls the funds. He even alleged that she conspired with people to have him killed.

[4] The respondent refers to the appellant as her "*estranged*" brother with whom she avoided contact over the course of the last eight years. The only contact she had with him was when he wanted money from her and the three previous unsuccessful protection orders he tried to obtain against her.

[5] The list of accusations continues and includes an allegation that his sister was colluding with other persons that led to a so-called "*legal entrapment*" of the appellant in Richmond. There is no evidence to substantiate this allegation.

[6] The financial complaint arises from monies coming from a deceased estate. There is no dispute that there was at some stage monies from an estate paid over to the appellant, payments made by way of deposits, but these payments were stopped by her. The respondent's response is that the monies have been paid by way of deposits made but that the monies have been depleted. Any further dispute over the estate's value/money should be voiced before the Master of the High Court or in a civil action to debate the estate account.

[7] The appellant stated that he was advised by the South African Police to open a case against her. According to him the advice was to open a case of embezzlement to obtain bank statements to debate the issue.

[8] The Magistrate refused this accusation to be within the ambit of domestic violence. This court shares the view of the Magistrate.

[9] The allegations made by the appellant that his sister was colluding with unknown people resulting in what he perceives to be a *legal entrapment* and to even have him killed in Richmond is speculation without any factual prove.

[10] The Magistrate, Mr Malatji, summarised the evidence and after applying the provisions of the Domestic Violence Act, 116 of 1998 to the evidence, concluded that there was abuse to obtain a protection order and he refused to grant a protection order. This was done under case number DV 222/2023.

[11] In the same bundle on Caselines a further record is found pertaining to Case number 1/4/2-H169/17. This is a judgment by Magistrate Botha from the Heidelberg Magistrate's Court where she previously dealt with a similar application between the appellant and the respondent. The Magistrate gave a comprehensive summary of the rather precarious relationship between the parties. Although not before this court, a similar pattern is noticeable in the conduct of the applicant.

[12] This court is not convinced that the appellant placed any compelling evidence before the Magistrate to come to a different conclusion as was by the Magistrate. The court is of the view that the appellant is abusing the relevant legislation to harass the other parties.

[13] The court would like to express its concern regarding the record presented by the appellant. It was not paginated, no index was done and the papers were not binded/ordered on Caselines as required by the Rules and Practice Directive. The papers were a loose mix on Caselines and the Court had to guess and search to find some sequence to deal with the matter. The court decided to hear the matter purely because the appellant appeared in person. Under normal circumstances the court would have removed the matter for non-compliance with the Rules.

I propose that the appeal be dismissed with costs.

HOLLAND-MUTER J
JUDGE OF THE PRETORIA HIGH COURT
12 November 2024

I agree and it so ordered.

MAKHOBAY
JUDGE OF THE PRETORIA HIGH COURT

Matter heard on 20 August 2024

Judgement handed down on 13 November 2024

Appellant in person

Respondent represented by Mr Mohapi