

IN THE HIGH COURT OF SOUTH AFRICA

GAUTENG DIVISION, PRETORIA

CASE NO: 90948/2015

DATE: 16-09-2025

(1) REPORTABLE: YES/NO

(2) OF INTEREST TO OTHER JUDGES: YES/NO

(3) REVISED.

DATE: 29-09-2025

SIGNATURE

In the matter between

S[...] K[...]

Applicant

and

T[...] B[...] K[...] & 5 OTHERS

Respondent

JUDGMENT

NKOSI, AJ: The reasons for the order which I intend to make are as follows.

1. I have read the reports by all the experts before and after the appointment of a Curatrix. I do not intend to repeat the contents thereof. However, I am satisfied with the quality of the reports compiled after the appointment of the Curatrix and the well-reasoned recommendation of the panel of experts who conducted their investigations prior to the appointment of the Curatrix.

2. All the reports and previous recommendations lead to a single conclusion, that the *status quo* before and currently does not serve the best interest of both children.

3. The children live with the first respondent yet their well-being has taken a turn for the worst. They believe that their father molested them sexually and this belief is fortified by the first respondent's lack of positive intervention. The reports before Court do not support the allegation of sexual molestation. A criminal-charge was investigated and it resulted in a *nolle prosequi* decision.

4. The assessment findings by Ms Wolmarans revealed that, while in their mother's primary care, the children have been subjected to an emotionally adverse and potentially abusive environment. This clearly calls for the Court's intervention as the upper guardian of all minor children. Such environment will certainly impair their potential abilities and deny them the opportunity they deserve of growing to be positive and responsible persons.

5. I agree with the Curatrix's view that the children harbour a lot of anger and resentment towards the applicant. In my view, the first respondent's lack of positive initiatives to deal with such anger and resentment, has encouraged the children to maintain their attitude believing that they are right and their mother approves.

6. The combined summons in the divorce action between the parties was issued by the first respondent on 10 November 2015, approximately ten (10) years ago and the action is yet to be finalised. The delay in finalising the divorce action and the fact that she has not promoted contact between the children and the applicant feed to the narrative that she is not prepared to allow her children to have contact with their father. Unfortunately, she has failed to demonstrate that there are lawful grounds for such refusal.

7. I am enjoined by the provisions of the Constitution and the Children's Act to protect the children from contaminated influences and negative and false narrative reinforcement which the first respondent is the author thereof. It will therefore not

serve the best interests of the children if they were to continue living with the first respondent.

8. I am further of the view that at this stage, it will also not be in their best interest to be left in the care of the applicant considering the long duration that has elapsed since they had a healthy contact with their father and the fact that they refused to have contact with the applicant.

9. I have read and considered the draft order uploaded on CaseLines 29-8 to 14 and in my view, it serves the best interests of the children.

10. I accordingly order that the draft order on Case Lines 28-8 to 14 is made an order of this Court.

NKOSI, AJ

JUDGE OF THE HIGH COURT

DATE: 29-09-2025