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

Case No: **7612/2019**

(1) REPORTABLE: NO

(2) OF INTEREST TO OTHER JUDGES: NO

(3) REVISED:

DATE 10 OCTOBER 2025

SIGNATURE

In the matter between:

P[...] T[...] K[...]

Applicant

and

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

Respondent

IN RE:

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

Plaintiff

and

P[...] T[...] K[...]

Defendant

This judgment is prepared and authored by the Judge whose name is reflected as such and is handed down electronically by circulation to the parties / their legal representatives by email and by uploading it to the electronic file of this matter on CaseLines. The date for handing down is deemed to be October 2025.

JUDGMENT

RETIEF J

[1] The Applicant brings an application for leave to appeal to the Full Bench of this Division against part of the judgment handed down by this Court on the 5 of September 2025.

[2] This Court accepts that reference to the Full Bench is yet again another oversight by the Applicant's legal team as leave should be requested to a Full Court of this Division and not a Full Bench.

[3] Furthermore, it is trite that one appeals the order and not the judgment. The Applicant does not request leave to appeal the order of this Court handed down on the 5 September 2025.

[4] Notwithstanding the above, the Applicant centres his grounds in support of the application to seek leave against the judgment, directing such grounds to the exercise of the Court's discretion in the finding of his substantial misconduct in support of the Respondent's successful partial forfeiture claim in terms of section 9(1) of the Divorce Act. This the Applicant does notwithstanding his admission of the forfeiture claim and grounds on the pleadings.

[5] Be that as it may, this Court has reconsidered its reasoned judgment and the cumulative effect of all the factors it took into account in the exercise of its discretion and finds that the Applicant has not only failed, to fully engage with the threshold of Section 17(1)(a)(i) or (ii) of the Superior Courts Act 10 of 2013 [Section 17 of the Act] but is of the opinion that the Applicant has failed to meet the threshold of section 17 of the Act.

[6] The Applicant furthermore stated in his notice that "*TAKE FURTHER NOTICE THAT, the Applicant reserves his right to supplement his findings (own emphasis) appealed against and the grounds of appeal*". The origin of this right

and on what findings the Applicant made remain unclear. His Counsel failed to deal with it in argument. In consequence no right nor basis to supplement exists.

[7] In consequence the application must fail.

[8] As to costs, there is no reason why costs should not follow the result. The Court is not inclined to grant a punitive cost order as sought and argued by the Respondent's attorney.

[9] The following order:

1. Application for leave to appeal is dismissed with costs, Counsels fees to be taxed on scale B.

L.A. RETIEF

Judge of the High Court
Gauteng Division

Appearances:

For the Applicant: Adv F Kabini

Instructed by attorneys: Mogajane Attorneys
Tel: (012) 751 8551

For the Respondent: Mr. T Mudenda
Cell: 083 501 5052

Date of hearing: 9 October 2025

Date of judgment:

10 October 2025