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

Case number: 2019-86009

Date of hearing: 31 October 2025

Date delivered: 5 November 2025

(1) REPORTABLE: YES/NO
(2) OF INTEREST TO OTHERS JUDGES: YES/NO
(3) REVISED
DATE 5/11/25
SIGNATURE

In the application between:

V[...] M[...] P[...] M[...]

Applicant

and

C[...] N[...] -W[...]

First Respondent

DIVORCE SETTLEMENT SERVICES

Second Respondent

RUDOLF PHILLIPUS JORDAAN N.O.

Third Respondent

This judgment is handed down electronically by the Judge whose name is reflected herein, and is submitted to the parties or their legal representative by email. This order is further uploaded to the electronic file of CaseLines by the Judge or his Registrar. The date of this order is deemed to be 5 November 2025.

JUDGMENT

SWANEPOEL J:

[1] This is an application for leave to appeal pursuant to my judgment dated 1 September 2025. The application was delivered out of time, and there is an application for condonation for the late filing thereof. I have considered the application for condonation, and believe that it is appropriate to grant condonation, as, after judgment was handed down, there was some controversy on whether I should have ordered the applicant to pay interest on the capital sum, which delayed the launching of this application. Consequently, condonation shall be granted.

[2] As far as the merits are concerned, the applicant now relies on two ground in support of its contention that the liquidator's report is assailable. Firstly, the applicant says that the liquidator erred in finding that there was no evidence that the applicant had fully divulged her investments to the respondent in advance of the marriage, and that he should, therefore, have excluded the investments from the calculation of the division of the estate.

[3] Secondly, the applicant says, now, that the liquidator misconstrued his duties when he refused to consider what deductions to allow from the applicant's portion of the estate as maintenance for the minor children.

[4] When one considers these submissions, it is important to note what case the applicant has made out in her answering affidavit. Generally, the answering affidavit simply makes the repetitive submission that the applicant disagrees with the report, and that she has always intended to challenge the report. The closest one gets to the reason for her disagreement is in paragraph 90 where she says:

"It is however denied that the calculation of my allocation account was effected correctly, more specifically, as amongst other things, certain amounts and items which were expressly to be excluded from the calculation as per the Settlement agreement that was made an order of court when the applicant and I divorced and which is attached to the applicant's founding affidavit as part of Annexure "VM1", ("the settlement agreement"), were included, without justification and/or sufficient justification therefore in light of the terms of the Settlement Agreement and the prevailing factual circumstances."

[5] There is no factual basis given for the averment that “certain items” should have been excluded. In argument counsel for the applicant argued that the agreement allowed for the exclusion of those investments and shares that the applicant had disclosed to the respondent before the divorce settlement was entered into. He pointed to an email dated 14 November 2018 to which was attached a statement of investments. The problem is that the answering affidavit, although it referred thereto, did not specifically deal with this email. Furthermore, it was addressed to the applicant’s current attorney, not to the respondent, when the attorney was still acting as mediator between the parties. There is no evidence that the statement was ever disclosed to the respondent.

[6] The second basis for the application is that the applicant now says that the liquidator failed to consider what amounts should be allocated to the applicant, and not shared with the respondent, as a result of her using her settlement funds to maintain the children. In doing so, the applicant now says that the liquidator failed to understand his duties. In the answering affidavit the applicant dealt with the issue as follows:

“....and included my severance package obtained from ABInbev (SAB) in such calculations without a reasonable basis, despite Mr Jordaan’s power to determine which deductions will be allowed from the payment received.

[7] It bears repetition that the test to be applied in considering whether to adopt the rapport is whether the liquidator was unreasonable, irregular or wrong. The applicant’s repeated averments that she did not agree with the liquidator are insufficient justification to refuse to adopt the rapport. The respondent has not established that the liquidator was wrong, or unreasonable, or that his rapport was in any manner irregular. For those reasons I do not believe that another court would reasonably come to a different finding.

[8] I make the following order:

The application for leave to appeal is dismissed with costs on Scale C.

**SWANEPOEL J
JUDGE OF THE HIGH COURT**

GAUTENG DIVISION PRETORIA

Counsel for the applicant:

Adv. F Kriel

Instructed by:

Du Toit's Attorneys

Counsel for the respondent:

Adv. G Ngcangisa

Instructed by:

Ningiza Horner Inc

Heard on:

31 October 2025

Judgment on:

5 November 2025