

IN THE HIGH COURT OF SOUTH AFRICA

GAUTENG DIVISION, PRETORIA

CASE NO: 012480/2023

(1) REPORTABLE: NO

(2) OF INTEREST TO OTHER JUDGES: NO

(3) REVISED.

DATE 24/11/2025

LENYAI J

In the matter of:

N[...] P[...] M[...]

Applicant

And

M[...] O[...] M[...]

Respondent

Delivered: This judgment is handed down electronically by circulation to the Parties/their legal representatives by email and by uploading to Caselines. The date and time of hand-down is deemed to be 14:00 on 24 November 2025.

JUDGMENT

LENYAI J

1. This is an application for leave to appeal brought by the applicant against the *ex tempore* judgment and order granted by me on the 1st September 2025. It is noteworthy to mention that this order was granted in an Application brought in terms of Rule 43 of the Uniform Rules of Court.

2. The application for leave to appeal was brought out of time and the applicant sought condonation for the late filling of the application. There was no opposition to the condonation application and same was granted.
3. The test for the granting of leave to appeal pertinent to the present matter is set out in section 17(1) of the Superior Courts Act 10 of 2013 as follows:

“(1) Leave to appeal may only be given where the judge or judges concerned are of the opinion that

(a) (i) the appeal would have a reasonable prospect of success or

(ii) there is some other compelling reason why the appeal should be heard, including conflicting judgments on the matter under consideration.”

4. I have considered the grounds upon which the application has been brought and the reasons given by me for the judgment and the order. I have also considered the submissions made by counsel for the granting of leave to appeal on the part of the applicant and those opposing the granting of leave to appeal on behalf of the respondent.
5. Lest we forget, it is trite that Rule 43 orders are interim in nature and are not intended to be appealed. See **S v S and Another [2019] ZACC @ para 33**. In this matter the Constitutional Court enforced the principle that Rule 43 applications serve as a mechanism for swift and cost effective interim relief during divorce proceedings and are not subject to appeal.
6. The apex court also acknowledged that litigants are not precluded from seeking a variation order under Rule 43(6) albeit with restrictions. The applicant had not submitted an updated financial disclosure form for consideration by the court hence the order that was granted.
7. I am not persuaded that another court would come to a different conclusion or that there is some other compelling reason why leave to appeal should be

granted

8. In the circumstances, I make the following order:

8.1 The application for leave to appeal is refused.

8.2 The applicant is ordered to pay the costs of the respondent on scale B.

MMD LENYAI J

JUDGE OF THE HIGH COURT

GAUTENG DIVISION, PRETORIA

Appearances

Counsel for Appellants	:	Mr Malale
Instructed by		Malale Nthapeleng Attorneys

Counsel for Respondent.	:	Adv A.J Schoeman
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Instructed by	:	Shapiro & Haasbroek Attor-
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Date of hearing	:	18 November 2025
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Date of Judgement	:	24 November 2025
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