

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

CASE NO: 2024 - 102744

(1) REPORTABLE: NO

(2) OF INTEREST TO OTHER JUDGES: NO

(3) REVISED: NO

DATE: **19/11/2025**

MOKOSE SNI

In the matter between:

M[...] G[...] M[...] (Born S[...])

Applicant

and

J[...] S[...] M[...]

Respondent

JUDGMENT

MOKOSE J

[1] Before this court is an application for contempt of court wherein the applicant seeks an order, *inter alia*, that the respondent is declared in contempt of the order of court order granted by the Magistrate's Court sitting at Pretoria under case number GP/PTA/RC2657/19 on 13 January 2020. The respondent opposes the application.

[2] The facts are briefly as follows: The parties were divorced on 14 April 2023. Clause 8.1 of the settlement agreement read as follows:

“ **IMMOVABLE PROPERTY**

(a) It is recorded that the Defendant shall retain the sole ownership of the immovable property situated at 3[...] H[...] Street, M[...] V[...], Mamelodi East, Gauteng Province (hereinafter referred to as “the immovable property”) subject to paying the plaintiff for her half-share at the market value amounting to R165 000,00 (One hundred and sixty-five thousand rand only). The amount shall be paid to the plaintiff on the defendant’s retirement within 3 months thereof.”

[3] It is common cause that the defendant received his pension payout. Furthermore, he paid the sum of R47 500,00 only to the applicant having received demand for the payment in terms of the order of divorce. It is noted that at the time of the divorce, the respondent was legally represented.

[4] In his defence, the respondent admits knowledge of the court order, however, contends that the applicant owes him monies for outstanding rates and taxes and legal fees. Accordingly, he has withheld the amount outstanding. Furthermore, he contends that the amount due and payable to the applicant was the sum of R82 500,00, being a half of R165 000,00 which he contends is the value of the property as at the date of divorce.

[5] The applicant seeks an order that the respondent be declared to be in contempt of the order granted by Magistrate Ntlati under case number GP/PTA/RC2657/19 and that the court impose a fine, such as is deemed appropriate or impose a period of imprisonment as deemed appropriate by the court. The applicant further seeks an order that the respondent be ordered to comply with the court order within fourteen days.

[6] All citizens and residents of the Republic of South Africa have a duty to respect and abide by the laws of the country. In the matter of *Secretary of the Judicial Service Commission of Inquiry into Allegations of State Capture, Corruption and Fraud in the Public Sector including Organs of State v Zuma and Others*¹ it was held that ‘courts unlike other arms of State.....rely solely on the trust and

¹ 2021 (5) SA 327 (CC) at para 1

confidence of the people to carry out their constitutionally mandated function which is to uphold, protect and apply the law without fear or favour. Disregard of court orders is an attack on the very fabric of the rule of law.'

[7] The requirements for contempt of court are trite. They are the existence of a court order; the contemnor must have knowledge of the court order; there must be non-compliance with the court order; and the non-compliance must have been wilful and *mala fides*. Once the first three elements have been shown, wilfulness and *mala fides* will be presumed, and the evidentiary burden shifts to the contemnor. Should the contemnor (the respondent) fail to discharge this burden, contempt would have been established.

[8] The parties are *ad idem* that the order was indeed granted by the Magistrate. The respondent admits knowledge of the Court order, and there is clearly non-compliance with the court order. In his defence the respondent avers that he was ordered to pay the applicant the sum of R82 500,00 only. He makes reference to the letter of demand dated 22 June 2024 in which the sum of R82 500,00 was demanded. However, the respondent does not refer the court to the letter of withdrawal, which was hand delivered of 23 July 2024, in which the previous letter of demand was withdrawn.

[9] Furthermore, a thorough reading of the rates statement which was handed up as evidence shows that the market value is the sum of R330 000,00. Email correspondence between the respondent and Swabirah Thabit (the respondent's legal representative who represented him in the divorce proceedings) and copied to the applicant's attorneys of record confirms that the half-share of the property is the sum of R165 000,00 and the municipal valuation was used to ascertain the value of the immovable property. He was at all times aware that the value of the property was the sum of R330 000,00.

[10] The respondent failed to take the court into his confidence and bring the abovementioned correspondence to its attention. I am of the view that the respondent's conduct is wilful in that he has attempted to mislead the court.

[11] In view of the evidence before this court, I have no option but to grant the order as prayed. Accordingly, the following order is granted:

1. The respondent is declared to be in contempt of the Court Order granted by Magistrate Ntlati under case number GP.PTA/RC2657/19.
2. The respondent is ordered to comply with the said order within 14 days of the granting of this order.
3. In the event that the respondent fails to pay the said amount of R117 500,00 to the applicant as ordered, he shall be committed to prison for a period of six months.
4. The respondent shall pay the costs of this application on a scale as between attorney and client as per scale C of the amended Uniform Rule 69.7 of the Uniform Rules of Court.

SNI MOKOSE J

Judge of the High Court of South Africa
Gauteng Division, PRETORIA

For the Applicant: Mr M Magolego
Instructed by: Magolego Attorneys

For the Respondent: Mr L Galane
On instructions of: Galane Lesiba Attorneys

Date of hearing: 18 November 2025
Date of judgment: 19 November 2025