



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

- (1) REPORTABLE: No
(2) OF INTEREST TO OTHER JUDGES: No
(3) REVISED.

SIGNATURE

DATE: 18 December 2025

Case No. 2025-203538

In the matter between:

VM

Applicant

and

JM

Respondent

JUDGMENT

WILSON J:

- 1 The respondent, JM, seeks leave to appeal against an interim interdict I granted on an urgent application that the applicant, VM, brought in this case. JM is VM's ex-husband. The interim interdict restrained JM from executing a warrant for VM's arrest that JM obtained from the Springs Domestic Violence Court. The purpose of the warrant was, in part, to coerce VM to co-operate with the sale of the parties' erstwhile marital home. The interim interdict was

granted pending an appeal VM is pursuing against the final protection order underpinning the warrant.

2 In my judgment, I concluded that the definition of “economic abuse” in section 1 of the Domestic Violence Act 116 of 1998 probably does not encompass VM’s refusal to co-operate with the sale of the parties’ property. I also found, for that reason, that VM’s non-cooperation probably does not constitute a breach of the final protection order JM obtained, and that the use of the warrant to arrest VM on that basis would, at least *prima facie*, be unlawful. I nevertheless left the final determination of that question to the court of appeal, and provided for the interim interdict to lapse if the appeal was not instituted within the prescribed period. The effect of my order is that the interim interdict will also lapse if at any time the appeal itself lapses for non-prosecution. I did not restrain the execution of the warrant for any purpose other than coercing VM to co-operate with the sale of the property.

3 The interim interdict plainly has no final effect. Interim interdicts with no final effect are not generally appealable. However, leave to appeal against an interim interdict with no final effect may still be granted if it is in the interests of justice to do so. The interests of justice will favour the grant of leave to appeal against an interim interdict with no final effect only where there is some exceptional feature of the case that weighs in favour of allowing an appeal against interim relief while the main case is pursued. Such an occasion is “a great rarity – where grave injustice threatens, and where intervention is necessary to attain justice” (*Psychological Society of South Africa v Qwelane* 2017 (8) BCLR 1039 (CC), paragraph 40). The question in this case boils

down to whether JM will suffer irreparable harm if the interim interdict is left in place while VM's appeal is prosecuted (see *City of Cape Town v South African Human Rights Commission* (144/2021) [2021] ZASCA 182 (22 December 2021), paragraphs 10 and 11).

- 4 JM was unable to point to any such harm. Self-evidently, there is none. In my judgment on the main application, I pointed out that the obligation to place the parties' property on the open market, subject to certain conditions, is embodied in a decree of divorce. It is open to JM to seek the execution of that decree at any time, by means of contempt proceedings if need be. It is in those proceedings that the meaning of the decree can be ascertained, and any disobedience of it can be addressed. JM suffers no harm, irreparable or otherwise, from being required to pursue that relief – rather than causing VM's summary arrest on the warrant – pending the outcome of VM's appeal.
- 5 For all these reasons, the application for leave to appeal is dismissed with costs.



S D J WILSON
Judge of the High Court

This judgment was prepared by Judge Wilson. It is handed down electronically by circulation to the parties or their legal representatives by email, by uploading it to the electronic file of this matter on Caselines, and by publication of the judgment to the South African Legal Information Institute. The date for hand-down is deemed to be 18 December 2025.

HEARD ON: 18 December 2025

DECIDED ON: 18 December 2025

For the Applicant:

MPT Maluleke
Instructed by Sibuyi Attorneys

For the Respondent:

Y Omar
Instructed by Omar Attorneys