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

(1) REPORTABLE: ~~YES~~ / NO
(2) OF INTEREST TO OTHER JUDGES: ~~YES~~ / NO
(3) REVISED: ~~YES~~ / NO

CASE NO: 2024-117121

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17/03/2026

DATE

SIGNATURE

In the matter between:

B[...]: S[...]

(Identity number: 8[...])

Applicant

and

B[...]: J[...]

(Identity number: 8[...])

Respondent

This judgment is handed down electronically by circulation to the applicant's legal representatives and the respondent by email, publication on Case Lines. The date for the handing down is deemed 17 March 2026.

JUDGMENT

LANGE, AJ

Introduction

[1] This is an opposed Rule 43 application in which the applicant seeks *pendente lite* spousal and child maintenance in the form of a monthly cash payment of R55 000.00 (fifty five thousand rand) and payment of a list of expenses to third parties, as well as a contribution towards her legal costs in the amount of R250 000.00 (two hundred and fifty thousand rand).

- [2] The respondent opposed the application and filed an answering affidavit, in which he made a tender to pay the monthly expenses relating to the children's and applicant's education costs, home loan, electricity, gas, water, rates and taxes, swimming pool maintenance, vehicles, insurance, medical aid, DSTV, ADT, solar, vehicle tracker systems, pet medical aid, dog grooming, and certain other expenses directly to the relevant service providers as well as a monthly cash payment of R20 000.00, a contribution to her legal fees in the amount of R30 000.00 (thirty thousand rand) and an order that costs be costs in the divorce. At the hearing of the matter, counsel for the Respondent made submissions that the respondent was now seeking that the matter be dismissed with no order as to costs.

Common Cause Facts

- [3] The parties have known one another since High School. They were engaged in or about January 2003 and got married on 4 October 2003, out of community of property with the inclusion of the accrual, which marriage still subsists. The parties separated in October 2024 when the respondent vacated the former matrimonial home.
- [4] There are two children born of the marriage, a daughter AB, born on 27 October 2006 who is currently 18 years old and a son, BB, born on 05 June 2009, who is currently 15 years old. AB is currently studying at the University of the Free State, where she stays in a hostel and BB is currently residing with the applicant in the matrimonial home. The respondent has frequent contact with BB but does not have much sleepover contact.
- [5] The applicant did not work after the birth of BB, and she was completely financially reliant on the respondent who paid for all the families' expenses. The applicant has no formal qualifications, and her highest education is Matric. After the parties' separation, and in March 2025, the applicant found a position as an aftercare manager at a school for which she earns R10 000.00 a month gross salary. She is also studying to become a primary school teacher, and the respondent is paying her tuition costs.

- [6] Prior to the parties' separation the applicant had her own debit card that was linked to the respondent's account, which she used for any and all expenses for herself and the family, including making payment of household accounts. During July 2024, the respondent took away her access to the bank account and told the respondent that he would pay the accounts himself.
- [7] The applicant opened her own bank account in September 2024 and thereafter the respondent paid an amount of R5 000.00 per week into the account, which the applicant used for all expenses not covered by the respondent.
- [8] Most of the issues raised by the applicant had been resolved by the respondent's tender and the only issues for determination by this court were the following: -
- a. The applicant seeks a cash contribution of R28 500.00, to be paid on the first day of each month. The respondent tendered R20 000.00 in his answering affidavit but this was then withdrawn at the hearing of the matter.
 - b. The applicant seeks a contribution towards her legal costs in the amount of R100 000.00. The respondent tendered R30 000.00 in his answering affidavit but this was then withdrawn at the hearing of the matter.

Applicable law and analysis

- [9] Argument on the matter centred around the needs of the applicant and the reasonableness of her application. It was accepted by both sides that affordability was not in issue, and no argument was therefore led on the issue of affordability.
- [10] Counsel for the Applicant commenced her argument by stating that on receipt by her of the brief, and in light of the tender made by the respondent in his answering affidavit, she had reworked the applicant's calculations and the applicant's actual need was R28 500.00 (twenty-eight thousand and five hundred rand) for herself and the children, which is the amount sought by her. She also took the court through the proforma invoice annexed to the application

in support of the claim for a contribution towards legal costs and made submissions that there were certain errors in the pro forma invoice in that it included interlocutory applications, expert fees not supported by a quotation and attendances past first day of trial, and as such, the applicant was seeking a contribution to her legal fees in the amount of R100 000.00 (one hundred thousand rand) and not R250 000.00 (two hundred and fifty thousand rand) as per her founding affidavit.

[11] Counsel for the respondent in his argument, criticised her for only amending the claim at the last moment, when she filed her heads of argument. This argument is not sustainable if one has regard to the draft order filed by counsel for the applicant in October 2025, which is uploaded onto CaseLines, and is identical to the draft order filed by her prior to the hearing of this matter. It is clear then that from at least October 2025, the respondent was aware of the change in the amounts sought by the applicant and was not blindsided by the change at the last moment as argued by counsel for the respondent.

[12] The applicant's argument hinged on the fact that the respondent's actions in restricting her access to funds to only R5 000.00 per week is financially controlling and left the applicant feeling like she was a child being doled out a weekly stipend and this weekly payment was extremely limiting for the applicant. Counsel for the applicant submitted that the respondent's financial control is further evidenced by the way he deals with the applicant's expenses at paragraphs 73.3 of his answering affidavit where he states "*I thereafter made regular payments to her account in excess of what I believed she reasonably required to lead a comfortable lifestyle. Whenever she required additional funds, she only had to ask, and I would make additional contributions.*" and paragraph 74 where he states:

"74.1 I do not expect the Applicant to buy "everything" she needs for herself and BB from the R5 000.00 weekly contributions, although the contribution should be more than enough to maintain a comfortable lifestyle.

74.2 Everything else that she needs I am already paying for, as is evident from my summary of expenses.

74.3 Whenever the Applicant has required additional contributions, she has merely had to ask. In this regard, examples of additional contributions I have made, include:

- (i) RAV Tyres; and
- (ii) Holiday expenses over Christmas 2024, where she was on holiday at Klipdraai and at the South Coast, in excess of R10 000.00.”

(my emphasis added)

[13] Counsel for the applicant submitted that this financial control was untenable for the applicant and necessitated an order that would give her certainty and autonomy over her expenditure.

[14] Counsel for the applicant took the court through the expenses listed by the applicant with which the respondent took issue, namely the amount of R10 000.00 per month allocated to the children in respect of groceries, the inclusion of R2 500 per month in respect of holiday expenses and the inclusion of R500 per month towards gift expenses by the applicant. She argued that the groceries also include the groceries purchased when AB comes home for weekends and holidays and the fact that BB is 16, highly active and consumes a lot of food.

[15] Having regard to the respondent’s own list of monthly expenses, it is clear that he has provided for caravan payments so that he can take the children on holiday. The respondent also does not dispute that during the marriage he *“always made payment from his personal account of most of the applicant’s personal expenses such as beautician, friends’ gifts, entertainment, haircuts, clothing, extra treatments, cosmetics and vitamins, minor repairs, cell phone, dry cleaning, personal groceries, birthday parties/gifts as well as my excess medical expenses.”*¹

[16] Lastly, counsel for the applicant submitted that on the respondent’s own version, in the list of his monthly expenses as set out in his answering affidavit,

¹ Founding Affidavit at paragraph 37 and Answering Affidavit at paragraph 93

which includes the R20 000.00 (twenty thousand rand) tendered in respect of the applicant, he allocates an amount of R8 500.00 (eight thousand five hundred rand) to “unforeseen expenses” for the applicant, which is proof that he acknowledges that the R20 000.00 is insufficient. Moreover, this is also the difference between the amount the applicant is requesting and the amount tendered by the respondent.

- [17] Counsel for the respondent commenced his address by stating that the parties were in court because the applicant sought payment of a monthly amount of R55 000.00 (fifty-five thousand rand) over and above payment of the expenses the respondent is already paying. He further submitted that had the applicant only claimed the amount of R28 500.00 (twenty-eight thousand five hundred rand) being claimed now from the start, the matter would not be in court. He further argued that the applicant, like many applicants in rule 43 applications, was in fact seeking spousal maintenance as though she was getting divorced today and not interim maintenance and that this was evident by the use of the words “anticipated expenses” in the founding affidavit.
- [18] Counsel for the respondent took issue with the fact that the applicant did not disclose the fact that her mother lives in a flat on the property. It is not clear how this is relevant to the question of whether the applicant requires maintenance pendente lite or not. Furthermore, the respondent admits that this arrangement has been ongoing since 2014 and as such, it is not a new arrangement which the applicant was trying to hide.
- [19] Counsel for the respondent did not deal in argument with the expenses claimed by the applicant other than to state generally that there was no need for the application as the applicant admits that the respondent is paying all the expenses she has sought to be made an order of court and further the bank statements which the applicant has attached to her affidavit show clearly that she does not have a deficit and therefore the weekly payments of R5000 paid by the respondent are sufficient for her needs. In reply, counsel for the applicant contended that the balances just show that the applicant is restrained in her expenditure and is moreover not a bar to her claim for maintenance as prayed.

[20] I have dealt with the argument regarding the amendment to the amounts claimed above and there is no reason to repeat it again. Suffice to say that I have no doubt that counsel for the applicant, who admitted that she did not draft the affidavit, acted correctly in advising the court and the applicant of the issues with the claim and amending the prayers.

[21] Counsel for the respondent argued that the applicant cannot bring an application for R250 000.00 with a flawed pro forma invoice and then do a sudden volte face at court and admit that a more reasonable amount is R100 000.00. He contended that the applicant had not made out a case for even the R100 000.00 cost contribution now being sought. It is the respondent's view that the only issue for determination at trial is the question of whether the applicant is entitled to spousal maintenance for life as she prays for in her summons or only rehabilitative maintenance as tendered by the respondent in his counterclaim. Furthermore, the parties have not even attended court annexed mediation as is now required in this division which could further curtail the expenses actually incurred. In reply, counsel for the applicant submitted that the mediation would also attract costs which the applicant could not afford.

[22] If one has regard to the pro forma invoice attached to the applicant's sworn statement and removes the items which both counsels identified as problematic, the amount being sought of R100 000.00 (one hundred thousand rand) is not excessive.

Costs

[23] The applicant sought an order that the costs of this application be costs in the divorce.

[24] Counsel for the respondent however argued that the matter should be dismissed and no order made as to the costs of the application.

[25] There is no reason to digress from the usual order as to costs in Rule 43 applications, being costs in the divorce action.

Order

[26] For the reasons set out above, I make the following *pendente lite* order:

1. The respondent is shall make payment of maintenance to the applicant, on or before the first day of each month into the applicant's designated bank account, in respect of the applicant and the children, in the amount of R28 500.00 (twenty eight thousand five hundred Rand) per month commencing from 1 April 2026, subject to an annual increase equivalent to the percentage increase un the Consumer Price Index in the preceding year as declared by the Department of Statistics which increase is to take effect 1 April 2027 and annually thereafter until finalisation of the divorce proceedings.
2. The respondent shall pay the applicant the amount of R15 000.00 (fifteen thousand Rand) for the remainder of the month of March 2026 within 2 days of this order.
3. The respondent shall make payment of all costs relating to the education of the children and the applicant, these costs shall include but not be limited to: -
 - 3.1. Tuition fees, school fees and university fees, registration fees, special levies, and related educational expenses;
 - 3.2. Extra mural activities both in and out of school and equipment and outfitting necessary for such extramural activities;
 - 3.3. Sporting activities both in and out of school and equipment and outfitting necessary for such sporting activities;
 - 3.4. School uniforms, books, and stationery;
 - 3.5. School functions, tours, and outings; and

- 3.6. Computer equipment and computer software, including desktops and/or laptops, tablets and/or iPads as required by the educational institution.
4. The respondent shall make payment of the costs associated with the retention of the applicant and both children on the comprehensive medical aid scheme on which they are currently registered and payment of the premiums thereof.
5. The respondent shall make payment of all medical expenses which are not covered by the medical aid scheme on which the applicant and the children are registered with.
6. The respondent shall make payment of all costs associated with the applicant's motor vehicle which shall include but not be limited to insurance, licensing, repairs, replacement of tyres and maintenance.
7. The respondent shall make payment of the following expenses in respect of the immovable property (former matrimonial home): -
 - 7.1. Rates and taxes;
 - 7.2. Electricity and water;
 - 7.3. Building and household content insurance;
 - 7.4. Refuse removal and sewerage;
 - 7.5. Security; and
 - 7.6. Repairs and maintenance as required.
8. The respondent shall pay an initial contribution towards the applicant's legal costs in the amount of R100 000.00 (One hundred thousand Rand), into the applicant's attorneys trust account, payment to be made by monthly deposits of R20 000.00 (twenty thousand rand), the first payment to be made on 31 March 2026 and the last day of each month thereafter, until 31 July 2026.

9. The costs of the application will be costs in the divorce action.

R LANGE
ACTING JUDGE OF THE HIGH COURT
GAUTENG DIVISION, JOHANNESBURG

Appearances

For the Applicant: Adv L Grobler
Instructed by: Alice Swanepoel Attorneys

For the Respondents: Adv HP West
Instructed by: Kruger and Oaks Attorneys

Date of hearing: 11 March 2026
Date of judgment: 17 March 2026