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**IN THE HIGH COURT OF SOUTH AFRICA
(EASTERN CIRCUIT LOCAL DIVISION, THEMBALETHU)**

Case No: 234/25

In the matter between

J[...] G[...] E[...] V[...] D[...] B[...]

APPLICANT

AND

O[...] V[...] D[...] B[...]

RESPONDENT

Date of Hearing : 13 March 2026

Date of Delivering : 23 March 2026

JUDGMENT

THULARE J

ORDER

(a) The respondent shall contribute towards maintenance and costs as follows:

- (i) Payment towards maintenance of the child of R3000 to the applicant monthly on the 1st day of each month into such account as nominated by the applicant in writing;
- (ii) Payment towards the maintenance of the applicant of R25 000-00 to the applicant monthly on the 1st day of each month into such account as nominated by the applicant in writing;
- (iii) keep both the child and the applicant on his medical aid or any medical aid with the same benefits that they were enjoying and pay therefor and in addition to bear all such reasonable medical and related expenses as are not recoverable from the medical aid scheme on the basis that any expense exceeding R500 in respect of each will not be incurred without the respondents prior consent;
- (iv) bearing all the child's schooling expenses including school clothing, after-care fees, stationary and equipment;
- (v) the applicant to have sole use of the VW Toureg vehicle (Toureg) currently in her possession and that respondent keep the car fully paid for, maintained and insured;
- (vi) the current care and contact arrangements shall continue. The other parent to have the right of first refusal, should the custodian parent need to go away on their turn to have the care of the child.
- (vii) and that respondent contribute R200 000-00 towards the applicant's costs in the divorce matter.

(viii) The respondent to pay the costs of both rule 43 applications.

[1] This is an opposed urgent rule 43(6) application wherein the applicant sought an order *pende lite* that the respondent pay R65 000-00 per month for herself and their minor child; keep both on his medical aid or any medical aid with the same benefits that they are currently enjoying and pay therefor; that the applicant have sole use of the VW Toureg vehicle (Toureg) currently in her possession and that respondent keep the car fully paid for, maintained and insured; that the minor stay with each parent for 4 days at a time and that during the 4 days with the respondent, the child sleep over with the respondent for the first two nights but then sleep with the applicant the following two nights regardless of whether it was a weekend; pick up times were to be 11:30 on schooldays (Tuesday, Wednesday and Thursday) by the parent in whose care the child was; pick-up when not in school to be 9:00; the other parent to have the right of first refusal, should the custodian parent need to go away and that respondent make a contribution of R200 000-00 towards her costs in the divorce matter.

[2] On 20 June 2025 a colleague had made a rule 43 order by agreement between the parties. In that order, the contact and care arrangements between the parties were to remain until any further agreement or court order pending the investigation and report of the Family Advocate. The respondent was ordered to contribute R20 000-00 towards the applicant's costs. The applicants claim for her own maintenance, interim care and contact of the minor child and provision of alternative transport by the respondent was postponed *sine die*. A social worker in private practice was appointed to investigate and report on interim care and

contact, and the parties were to share the costs thereof equally. The respondent was ordered to pay R3000-00 per month for the maintenance of the child and to pay the current or reasonable daycare including the costs of stationary and equipment for the minor child and to keep the minor child on his medical aid scheme and to bear all reasonable and related expenses as were not recoverable from the scheme on the basis that any expense exceeding R500 will not be incurred by the applicant without the respondents prior consent.

[3] The child lived with both parents until the applicant left with him when she left the matrimonial home during the Easter weekend of 2025 and then filed for divorce. Since she moved out, the respondent proposed and insisted on what is called a 2-2-3 contact and care schedule so that primary care and residence of the child was equally shared between the parents. This meant that the child spent two days with each parent, and the weekend, which was 3 days, was alternated. The respondent's view is that this was necessary as the child was entitled to be nurtured by both parents in equal measures. The applicant's prayers as regards contact and care in this application, pending the Family Advocates investigation and report, follow the recommendations as set out in the private social workers report. The respondent's case is that the 2-2-3 arrangement should remain in place until the Family Advocate reported on the matter.

[4] The applicant operated a business, to wit Greywater Futura (Pty) Ltd (Greywater). The respondent operated a few businesses including Fairways Business Trust (the Trust), Benmari Investments (Pty) Ltd (Benmari) and Oil Trap Services (OTP). The income of the companies was shared and for instance, all

costs relating to OTS operations were paid out of Benmari. Respondent himself confirmed that from time to time he allowed the OTS team to assist Greywater but Greywater always had to refund Benmari, which confirms the umbilical cord that held the entities surviving together. The business administration was done at respondent's offices, and he had insight into the business statements. Before the applicant left the common home and when things were still acceptable to both, whether as salary or members drawings, the applicant drew R25 000-00 per month from Greywater for her own personal expenses. The respondent provided accommodation and related costs, and subsistence and travel for both her and the child including medical expenses. The respondent is also a director of several companies in the Genius Academy Group Schools, with each school and property being a separate entity. Some of the companies have several directors and shareholders and respondent could not list his personal shareholding and/or those of separate entities in which he had an interest.

[5] The respondent alleged that the applicant's family was extremely wealthy and that she was a beneficiary of a substantial Family Trust and was critical of the applicant moving out of her family home to which she had temporarily moved after leaving the common home. Whilst the respondent argued that the applicant was easily able to meet her reasonable and actual monthly expenses from her own resources, he relied, in this conclusion, on the alleged wealth of the Family Trust founded by her father, and not on her own means. The respondent is welcome to hold his own opinions in high regard, but they do not, by his own views on his opinions, get elevated to facts. The respondent's opinion on whether she was paying rent to her father or the Trust remains speculative and irrelevant for the proper determination of the applicants means.

[6] The respondent would not volunteer the nature, scope and extent of his wealth out of his own volition. The respondent is a director of several companies, each being a separate entity. He owns amongst others property worth closer to R8750 000-00 on his own version. Other properties are registered in the company or trust names. Yet he claims that his only vehicle is a KTM motorcycle valued at about R170 000-00. He claimed his only income was from a rental from the only property he owned in his personal name. His companies generated income but he was not in a position to quantify what he earned. I am not persuaded, from the posture adopted by the respondent in relation to his financial status, that the rules of court even on further and better discovery would meet his posture. The applicant cannot be faulted for seeking to appoint a forensic auditor and a sworn valuator to effectively exercise her rights and claim what is truly due to her from the estate. Having considered the list of items for her claim for a contribution to her legal costs, I find R200 000-00 reasonable. Having considered the applicants expenses, I am not persuaded that she presented exorbitant and inflated amounts as the respondent claimed. She also made the deductions for the expenses related to her daughter which was born of another man who is maintaining that child.

[7] My sister on 20 June 2025 made an order in terms of rule 43 which provided for the maintenance of the child, the appointment of a social worker to investigate on the interim care and contact with the child as well as referral to the family advocate to investigate and report on the contact and care and a contribution order at R20 000-00. The parties were discussing settlement at the time and the order was by agreement. The maintenance of the applicant, interim care and contact with the child and provision of alternative transport by the respondent was postponed

sine die. It is the enrolment of those postponed issues as well as the proper interim order that is the context of this rule 43(6) application. The event of material change in the circumstances, in this matter, must also be approached on the same footing. This is necessary for instance to understand why, in the event of my sister having made a cost order of R20 000-00, the same issue is being revisited in this matter when the settlement attempts failed. The pre- and post- social worker investigation issue on the contact and care also fell into this category, whilst for instance the maintenance of the applicant and the provision of transport may be new determinations. The principles guiding a rule 43(6) application apply, to wit, where there has been a material change in the circumstances of either party or a child, or where a contribution towards costs proves inadequate [*Grauman v Grauman* 1984 (3) SA 477 (W) at 480C; *Micklem v Micklem* 1988 (3) SA 259 (C) at 262E–G; *Maas v Maas* 1993 (3) SA 885 (O) at 888C; *C.L.J v C.L.E* (unreported, GJ case no 34367/19 dated 26 April 2023) at paragraph [19]; *Z.G v J.G.C.G* (unreported, GP case no 77979/2018 dated 12 January 2024) at paragraphs [43–[44] and the cases there referred to}.

[8] Parents should arrange for situations where children function in an emotional comfort zone. For especially younger children, where possible everything should be as predictable as possible. The developments and environment should be familiar, to enable the child to explore an emotionally secure and physically safe world. The younger the child, the more the attachment to parents and people they know. That attachment stage is built by rhythm and structure, which makes a regular pattern necessary. Play time, doing things together and hands-on nurturing including bathing and feeding are valuable in building a relationship with a young child. The importance of physical contact and sleeping over with a parent,

especially with the mother, for young children, should not be underestimated, as a factor in the emotional development of children. It is not uncommon for babies to enjoy the emotional warmth and developmental security of just holding the mothers tittle in their sleep, even if they are not being breast-fed.

[9] Where parents are divorcing, it is common to find them busy fighting and denigrating each other. They project their anger and dismay by attacking the other parent's ability to do a good job as a parent. Where they have different styles of parenting, it makes it even more difficult to make joint decisions, and their differences of opinion quickly escalate to conflict. The negative opinions and feelings about the other parent make the playground, which is the space between the two parents, very toxic for the child. In cases like the present, where the father may be too strict at times, and the mother communicate more of her needs than those of the child, there is a need for co-ordination, attention, guidance and training, including the help necessary to heal the wounds of the divorce and the creation of a conducive playground, for them to become an effective parenting team. The child in this matter already knows the pattern in place and responded positively to it. He goes to school and his report card showed that he performed well and showed progress in his development. The social workers view is that the lack of a consistent family pattern will traumatize the child more. I found no reason to interfere with the current arrangements.

[10] The respondent is prepared to continue to contribute R3000 per month for the maintenance of the child, over and above him bearing all the child's schooling expenses including school clothing, after care fees as well as all its medical

expenses in full. The respondent has no issue with continuing to maintain the child as he did to date. The issues between the parties, including in this rule 43(6) application, over and above the contact and care which I have already discussed, are the applicants claim for the use of the Toureg until divorce, the applicant's interim maintenance and her lifelong maintenance claim as well as the amount of his contribution to her costs. The Toureg is currently in possession and use of the applicant. It is not for this court to determine whether it was a gift, or it was lent to the applicant. In my view simple justice demands that it remains with her until the true issues between them, including who is entitled to what, of their properties, is fully and finally determined by the divorce court.

[11] I find it extremely selfish and lacking in self-respect, to hear a rich husband who can afford to maintain his wife, claiming that the wife must first look to her own parents to support her, before she can approach him for her maintenance. It is on the same footing and should be as shameful as a man who can afford to maintain his child saying a mother must first look to a governments child-care grant before claiming maintenance from him. It is a serious patriarchal misdirection and frankly, behaviour that shows lack of good sense and judgment which is anchored on plain greed and is intended purely to hurt another. It is an action intended to harm in return for a bruised ego for which the perpetrator has a desire to repay a perceived injury or wrong. It is never about maintenance but revenge. It is a thinking that stands to be rejected. For these reasons I am making the order.

DM THULARE

JUDGE OF THE HIGH COURT