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

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

Case Number: 2022-053873

DATE	SIGNATURE
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In the matter between:

L[...] **L[...]** **L[...]**

Applicant

and

D[...] **W[...]** **B[...]**

Respondent

JUDGMENT

WENTZEL-THOMPSON J

[1] This application concerns the termination of the Respondent's parental responsibilities and rights in respect of the minor child. The relief sought is final in effect and implicates the most profound interference with the parent-child relationship recognised in our law. It must therefore be approached with caution, restraint, and a proper appreciation of both its legal consequences and its human significance.

[2] The Applicant's case is that the Respondent has failed to maintain meaningful contact with the child and has, by his conduct, effectively relinquished his parental role. The Respondent disputes this and contends that his attempts to maintain contact have been impeded by distance, logistical difficulty, and, at

times, the conduct of the Applicant. The central issue is thus not merely the extent of contact, but the reason for its limitation.

- [3] The matter must be determined within the framework of section 28(2) of the Constitution, which renders the best interests of the child paramount, read together with sections 7 and 9 of the Children's Act 38 of 2005. These provisions require a court to undertake a holistic evaluation of the child's circumstances, including the nature of the relationship with each parent, the degree of commitment shown, and the likely effect of any proposed order.
- [4] It is well-established that the termination of parental rights is a remedy of last resort. Courts are slow to extinguish the legal bond between parent and child absent compelling evidence that continued parental involvement would be harmful to the child. The jurisprudence underscores that imperfect parenting, strained relationships, or limited contact do not in themselves justify such drastic relief.
- [5] The Applicant relies heavily on the fact that the child resides in the United Kingdom and that the Respondent's contact has been sporadic. However, this fact cannot be considered in isolation. The realities of international separation inevitably affect the frequency and quality of contact and must be evaluated contextually rather than mechanically.
- [6] The Respondent's version, which must be assessed in accordance with the Plascon-Evans rule, is that he has made repeated attempts to communicate with the child and to remain involved in her life. He attributes the limited success of those efforts to practical constraints and to restrictions imposed by the Applicant. This version is not inherently implausible and is supported by documentary material in the form of communications between the parties.
- [7] Applying the Plascon-Evans approach, the Respondent's version cannot be rejected on the papers. It follows that the Court must proceed on the basis that the Respondent has not abandoned the child, but has sought, albeit imperfectly, to maintain a relationship under difficult circumstances.

- [8] The absence of expert evidence is a significant deficiency in the Applicant's case. There is no report from the Family Advocate, no psychological assessment, and no independent evaluation of the child's best interests. In matters of this nature, where the relief sought is both drastic and irreversible, such evidence is ordinarily indispensable.
- [9] The best interests enquiry requires the Court to consider not only the present state of the relationship but also its potential for development. The evidence does not suggest that the Respondent poses any risk to the child, nor that continued contact would be harmful. In these circumstances, the preservation, rather than the severance, of the parental relationship is generally to be preferred.
- [10] The relief sought by the Applicant is, in my view, disproportionate to the facts established on the papers. While there may be difficulties in the current arrangement, those difficulties are capable of being addressed by less intrusive measures, such as the structuring of contact or the involvement of appropriate professional services.
- [11] Ultimately, the Applicant has not discharged the onus of demonstrating that it is in the best interests of the child to terminate the Respondent's parental responsibilities and rights. The evidence falls short of establishing abandonment, unfitness, or harm, and the disputes of fact must be resolved in favour of the Respondent.
- [12] In these circumstances, the application cannot succeed.

Order

1. The application is dismissed.
 2. The Applicant is directed to pay the costs of the application.
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**WENTZEL-THOMPSON J
JUDGE OF THE HIGH COURT
JOHANNESBURG**

For the applicant: J.C. Borman
Instructed by: SKV Attorneys Inc.

For the respondent: Xavier van Niekerk
Instructed by: Van Heerden and Krugel Attorneys

