

IN THE HIGH COURT OF SOUTH AFRICAGAUTENG DIVISION, JOHANNESBURGCASE NO: 127936/2024DATE: 06-05-2026

DELETE WHICHEVER IS NOT APPLICABLE

(1) REPORTABLE: NO

(2) OF INTEREST TO OTHER JUDGES : NO

(3) REVISED



SIGNATURE

DATE: 6 May 2026

In the matter between

10 SS

Applicant

and

MD

Respondent

J U D G M E N T *EX TEMPORE*

WILSON, J: This is an application under Rule 43 of the Uniform Rules for interim custody of two minor children, maintenance for those children, and a contribution to costs in the pending divorce action.

20 The parties have agreed the care and contact regime which will apply to their two children. That is set out in paragraphs one to three of a draft order which I shall presently endorse. It seems from submissions made in argument that the regime has been working well, and it appears to me to be in the best interests of the children.

The contentious points in this application relate to the

respondent, Mr D's, obligation to maintain the two children while they are in the care of the applicant, Ms S. The children are in Mr D's care every other weekend, and for the rest of the time they are Ms S's responsibility.

In those circumstances, it is inarguable that Mr D ought to pay to Ms S a reasonable amount to maintain the children, because they are in her care for the overwhelming majority of the time.

In calculating maintenance *pendente lite*, a court is
10 not required to exercise a line-item veto over the parties' various expenses. Nor is it required to trawl through their bank statements in order to detect every last cent of income. What is required is a rough and ready but reasonable estimation of each party's means and their reasonable needs. I have with the assistance of counsel and Mr D, who appeared in person, been able to make such an estimation.

Mr D earns from his salary just under R50 000 per month. On top of that he receives approximately R27 000
20 per month, primarily from rental income on property he owns. That brings us to a ballpark figure of R77 000 per month. Ms Patel, who appeared for Ms S, suggested that the figure is in fact higher than that, but the amount that Ms Patel posited – somewhere in the region of R90 000 – is not so much greater than the amount Mr D admits to receiving

as to effect the reasonableness of the calculations I am required to make.

Ms S earns approximately R27 000 per month from her employment. She also, it is admitted, earns some additional income, although it is not clear to me on the papers how much additional income she earns or how reliable it is.

I will base my order on the proposition that Mr D's income is roughly R77 000 per month and that Ms S's
10 income is approximately R27 000 per month.

It is accepted that Mr D already pays the children's school fees and the cost of their medical aid contributions. There is a dispute about the extent to which Mr D pays for medical expenses not covered by the children's medical aid scheme, and for additional amounts in respect of the children's education that are not covered by school fees. However, both parties accepted that school fees and medical costs, together with additional educational and medical costs for both children, would come to
20 approximately R10 000 a month. I shall assume, in Mr D's favour, that these amounts are amounts that he currently pays. They are, in any event, amounts that Mr. D will be required to pay in the order I propose to make.

It is, however, necessary to deduct that R10 000 from Mr. D's total monthly income in order to calculate his cash

maintenance contribution. Having done that, I come to a figure of R67 000 per month, from which I must deduct a further cash contribution to the children's maintenance beyond school and medical expenses.

At the outset of her argument I put to Ms Patel that it seemed to me that a reasonable cash contribution would be in the region of R10 000 per month per child. Ms Patel argued quite strenuously that this would leave Ms S with a significant monthly deficit and for that reason R10 000 a
10 month would be unreasonable. Ms Patel pointed to the substantial shortfall a contribution of R10 000 per month per child would leave in Ms S's monthly budget, as tabulated by her in her financial disclosures and her other papers. I am accordingly persuaded that R10 000 a month may be insufficient.

Ms Patel persuaded me that a contribution of R15 000 per month per child would be appropriate. This will not completely eliminate the deficit to which Ms Patel drew my attention, but it seems to me that R15 000 rand per month
20 per child is at the upper end of what Mr S, on his salary and his other income, can reasonably be expected to pay. This will leave Mr S with R37 000 per month for his own expenses.

An order in terms of Rule 43, *pendente lite*, is not required to be statistically perfect, in the sense that it

meets every quantified need expressed on an applicant's papers. A Rule 43 order need only be based on a reasonable estimate of each party's needs and ability to meet their reasonable obligations. It seems to me that on the facts that I have set out, the amount of maintenance I will presently order is reasonable in that sense.

Ms S asked for a contribution to costs in the divorce action. It is customary in this court, when a contribution to costs is sought, that the applicant for such a contribution
10 provides a draft invoice or a draft bill of costs, which places the court in a position to understand what the expenses associated with each trial stage are likely to be.

This is not the approach that was adopted on Ms S's behalf. A bald estimate was provided in the founding papers. That bald estimate does not tally with the amount sought in Ms. S's Notice of Motion or in her draft order. Accordingly, I am not in a position at this stage to provide a reasonable estimate of what Ms. S's costs will be. Nor am I in a position to consider what Mr D's reasonable
20 contribution to those costs, if any, should be.

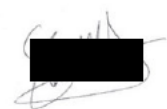
In calculating Mr. D's maintenance contribution, I have had regard to the fact that he may in future be required to contribute to Ms S's legal costs. It seems to me that there is, if required, something left in his income to make such a contribution in the event that it is ordered.

However, for today, no such contribution can be ordered. I will postpone the application for a contribution to costs *sine die*.

The only remaining issue is the costs of this application. It seems to me that in all the circumstances cost should be costs in the trial. I heard no submissions from the contrary from either party.

For all those reasons I have amended the draft order, very helpfully prepared by Ms Patel, to make provision for a
10 contribution to be paid in respect of maintenance of both the children, *pendente lite*, to Ms S of R30 000 per month. I have amended the order to postpone the application for a contribution to costs *sine die*. I have endorsed the care and contact regime for the minor children agreed to between the parties, and I have directed the costs will be costs in the trial.

That order is now signed, dated, and marked "X".



WILSON, J
JUDGE OF THE HIGH COURT
6 May 2026

