


REPUBLIC OF SOUTH AFRICA



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

Case Number: 2026-103187

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

In the matter between:

SIP Applicant

and

ASR Respondent

JUDGMENT

WENTZEL -THOMPSON J

Introduction

- [1] This is an urgent application in which the applicant, SIP, seeks interim guardianship of two minor children, S, now 11 years old, and J, now two and a half years old, pending the outcome of a forensic psychological investigation. In addition, the applicant seeks an order that the respondent's contact with the children be supervised, that she undergo random drug and alcohol testing, and that the costs of those interventions be tendered by him.
- [2] The respondent, ASR, opposes the application on the merits and in limine, challenges urgency, and brings a counter-application in which she seeks, *inter alia*, a regulated contact regime, interim maintenance for the children and for herself on a rehabilitative basis, and ancillary interdictory relief.

Background

- [3] The parties were in a non-marital romantic relationship from approximately 2020 and were never married. They are the biological parents of J. S is the biological daughter of the respondent and one JJJ. Accordingly, the applicant is not her biological father, though he has acted *in loco parentis* for approximately six years. However, S informed me that she still has contact with her biological father approximately twice a month when he collects her over a weekend and takes her to do something together and then drops her home.
- [4] The parties separated in or about February 2026 following the respondent's admission to and discharge from Life Glynnview Psychiatric Hospital, where she was treated from 1 to 13 February 2026 for Substance Use Disorder (alcohol, cannabis) and a Cluster B personality presentation. She has been in remission from cervical cancer since late 2024.
- [5] After the separation, the applicant relocated to his parents' home. The respondent remained in the parties' rented home in the same suburb, together with the two minor children.
- [6] The applicant describes a pattern of volatile and concerning conduct on the part of the respondent following the separation. This includes abusive WhatsApp communications, interference with contact, leaving the children unsupervised in the care of a domestic worker while she socialised overnight, erratic conduct during J's hospitalisation for a life-

threatening RSV infection in April 2026, failure to take the children to school for three consecutive days, and what he characterises as threats to open criminal charges of rape of S against him unless he pays her money.

- [7] The matter first came before me on 12 May 2026. At this stage, the respondent was not represented but she nevertheless addressed me. She openly admitted that she had previously worked in the sex trade and stated that it was in the course of that work that she met the applicant. She informed me that before she met the respondent she did not smoke cannabis and it was the applicant who got her onto it. She explained that she had booked herself into the clinic as she wished to stop smoking cannabis, but insisted that the applicant continues to smoke it.
- [8] The respondent indicated that she wished to try and obtain legal aid and to answer the application. I accordingly postponed the application to enable the respondent to do so and to allow the applicant to reply.
- [9] The matter then came before me in the urgent court on 5 June 2026. At this hearing, I was pleased to see that the respondent was represented by Mr Morland. He explained that he had been in court at the last hearing and that the respondent had approached him to represent her. He arranged for an attorney to act *pro amico* and to brief him, also on a *pro amico* basis, and they prepared the answering papers on the respondent's instructions.
- [10] In the papers now before me, the respondent vigorously contests the applicant's characterisation of events. She provides significant contextualising background, although counsel for the applicant argued that this was solely to obtain the sympathy of the court. The respondent states that she was exploited as a young woman into sex work following the murder of her father in 2014. She explains that she met the applicant as a client at a gentlemen's club in September 2021 and they formed a relationship. The applicant then apparently induced the respondent to leave sex work on the strength of promises of a permanent relationship and full financial provision for her child, S. They then had a child together, J, who is now two years old.
- [11] She contends that this application was brought opportunistically, with severely truncated timelines, in circumstances where the applicant knew she could not afford legal representation. She makes the profoundly serious allegation that the applicant, during the relationship, touched S on her genitalia, mistaking the child for the respondent, and that a church counsellor urged her to remain silent in order to preserve

the applicant's financial support. It is not clear whether this incident, if it indeed occurred, is the source of the allegations of rape made by the respondent against the applicant. The respondent also insinuates in her papers that the applicant has a fetish for young girls and asked her to dress up like a school girl when she was still working as a sex worker.

- [12] This is an extremely serious allegation with dire consequences that, if untrue, could potentially ruin the applicant's life. This is not an allegation that should be lightly made, and was certainly not something raised by S in her interview with me. It should also not be something used to extort money from the applicant. What militates against the respondent's contentions is that since their separation, the respondent requested the applicant to look after the children for five days and would not have done so had she thought that the applicant could not be trusted with S.
- [13] I must mention, however, that S informed me that the applicant wished to continue bathing her with her brother, but she did not feel comfortable with this as her body is transitioning into that of a woman and she wants some privacy when it comes to her developing body. She indicated that the applicant was not happy about this at first but has now accepted it and respects her privacy.
- [14] The applicant's contentions that the respondent screams profanities at him in the presence of the children is also concerning. She seems not to be able to control her immense hurt, anger and jealousy caused by the applicant leaving her and now wanting to take her children, yet continuing to control her. This is evident in the fact that the applicant has left her without a car and refuses to provide her with money of her own to do with what she chooses under the pretext that should he provide cash to her, she will use it to buy alcohol or drugs. S assured me that her mother no longer smokes cannabis and states that although she consumes alcohol, she is not abusing it.
- [15] The applicant's family owns a number of Spar franchises in Pretoria and he drops food and groceries for the respondent and the minor children at the respondent's residence. The respondent is forced to request the applicant to order e-hailing services (Bolt) for her if she needs to take the children anywhere. Instead of fixing the respondent's car so that she can take the children to school, the respondent retains control by collecting the children from the respondent and taking and fetching them from school, after which he drops them at home again.

- [16] Although the applicant attends to all of the children's financial needs, he provides no financial assistance to the respondent. This is said knowing that the applicant has continued to pay the rental and the municipal charges for their former home and has continued to drop food parcels at their former home, all of which benefit the respondent. But this is not benevolent; it is a byproduct of his desire to provide for the children. What he seeks to achieve, however, is to have the children removed from the respondent and should he be successful in this endeavour, I have little doubt that without a court order, he would cease to provide for the respondent.
- [17] The view I hold is supported by the fact that since leaving the respondent, the applicant removed her from his medical aid, in the face of her cancer diagnosis, and must have been aware that with such a diagnosis, any further cover she may obtain will be with heavily loaded premiums to assuage the risk. In the course of argument, the applicant's counsel, Ms Randall, sought to persuade me on instructions from her client that this was at his parent's insistence as the medical aid is paid through the businesses. This is not a satisfactory explanation.
- [18] This controlling behaviour was, according to the respondent, prevalent during the time that they were previously living together. I get a sense from the papers, and the clearly the irrational and impulsive behaviour of the respondent that she feels disempowered, , desperate, jealous and discarded. I also sense an emotional immaturity and lack of judgment in the respondent that needs addressing.
- [19] Much is made in the papers of the fact that the respondent has now returned to sex work. She insists this is because she had no choice as the applicant had ceased providing for her financially and with her limited education, this is the only reasonably paid work that she is capable of doing. The applicant disputes this and says that she previously had a beauty therapy business that she only ceased as she had a fight with her partner in the business. Ms Randall sought to persuade me that the respondent has pursued this line of work out of choice and for money, and not because she has no alternative. I do not accept this. The respondent says she earns R3000 per week (that is R12 000 per month) which evidences that this is not a profession pursued for money, but rather out of desperation. If the respondent is qualified as a beautician as alleged by the respondent, the reason for her not seeking employment in this field needs to be explained and investigated.
- [20] Of further concern to me is that S informed me that it was the applicant who informed her what the nature of the respondent's work was. This was denied by the applicant. If

indeed true, this could only be to be vindictive and/or to alienate S from her mother; the applicant must have known that this could not have been in S's best interests.

- [21] During my interview with S she volunteered that the applicant sought to persuade her to live with him as he (or his parents) had a much nicer house and he would buy her whatever she wished. S had the maturity and insight to assure me that she was not persuaded by this; she said money is not everything and that this did not dissuade her from wanting to live with the respondent. This is an aspect that I deal with later in this judgment.
- [22] The applicant creates the impression that the respondent leaves the children unattended, sometimes for days on end, to pursue her career as a sex worker. He raises concerns about who is minding the children when she does so seeing as she fired the domestic worker after she reported certain incidents to the applicant and thus no longer trusted her loyalty to her; this domestic worker now works for the applicant.
- [23] This scenario painted by the applicant is not entirely true: S informs me that while her mother sometimes goes to work at night, she is never out longer than 12 pm and always arranges for someone to look after her and her brother. She made a point of telling me that respondent never leaves them for days on end. This made me suspicious as I wondered why she was refuting this allegation. I asked her how she knew that this had been said and she admitted that this was one of the things that the respondent had told her that the applicant had said about her.
- [24] This is highly inappropriate and made me alive to the fact that there may have been some coaching of S by the respondent prior to her interview with me. It was, however, readily apparent from my interview with S that her loyalties were with the respondent and she expressed a strong desire to reside with the respondent. Although I canvass this later in my judgment, my impression was that these were views genuinely held by S and were not views that the respondent had manipulated her to convey to me.
- [25] It is also necessary to address the claims that the respondent has failed to ensure that the children attend school and that they have missed an inordinate number of days of school. When I asked S about this, she assured me that they had only missed school when they were not well and explained that in the winter, they tended to get sick more often. As S informed me that she is extremely happy at her school, I doubted that she had missed school because she did not want to go and the respondent had condoned this. I nevertheless impressed upon her how important it was that she attended school.

The in limine challenges raised by the respondent

a. *Urgency*

[26] The respondent disputes that the matter was properly urgent. In terms of Rule 6(12)(a) of the Uniform Rules of Court, a court may hear a matter as one of urgency where the interests of justice so require. An applicant must show not only urgency but that the urgency was not self-created and that substantial redress cannot be obtained in due course.¹

[27] The most recent discrete events preceding the launching of the application on 7 May 2026 were school absences from 4 May 2026 and the refusal of access to the complex on 17 April 2026. The applicant was aware of the broader pattern of conduct by the respondent from at least January 2026. The urgency was, in substantial measure, manufactured by delay and selective presentation of incidents.

[28] This notwithstanding, the application brought by the applicant raised serious concerns about the safety and well-being of the minor children currently in the care of the respondent. I therefore did not dismiss the application for lack of urgency and decided to consider the merits, after affording the respondent the opportunity to respond and make representations. I likewise afforded the applicant to reply to the respondent's contentions.

Non-joinder of JJJ

[29] The respondent raises a salient point of non-joinder, contending that JJJ, S's registered biological father, acquired parental responsibilities and rights in terms of section 21 of the Children's Act 38 of 2005 ("the Children's Act") and ought to have been joined in respect of the relief sought relating to S. There is no evidence before this court that JJJ has been divested of those rights.

[30] The point of non-joinder in respect of JJJ is well-taken. The unabridged birth certificate (Annexure "AA1") confirms that JJJ is S's registered father. In terms of section 21(1) of the Children's Act, he acquires full parental responsibilities and rights in prescribed circumstances and there is no order before this court that divests him of those rights.

¹ *Luna Meubels Vervaardigers (Edms) Bpk v Makin and Another (t/a Makin's Furniture Manufacturers)* 1977 (4) SA 135 (W).

This notwithstanding, he was not cited in these proceedings, although the applicant seeks guardianship of S.

[31] Any order affecting S's primary residence or guardianship would be irregular without JJJ having been afforded an opportunity to be heard.

[32] To the extent, however, that the counter-application seeks the regulation of contact and the maintenance of S by the applicant (with whom she has an established *de facto* parental relationship), those claims may be dealt with on an interim basis.

[33] But the final relief sought by the applicant with regard to S cannot proceed unless and until JJJ is joined to these proceedings.

The merits: Interim guardianship

[34] The relief sought is, in substance, the transfer of primary residence and interim guardianship of both children to the applicant pending a forensic psychological investigation. This is a drastic order, requiring the displacement of the primary caregiver with whom the children have lived throughout their lives. Courts are rightly cautious in granting such relief on motion on the basis of contested, charge-laden affidavit evidence. The disputes of fact already alluded to by me are a testament to this.

[35] The paramount consideration in any matter concerning a child is the best interests of that child.² Relevant considerations include the child's existing care arrangements, sense of security and familiarity, the ability of each parent to meet the child's emotional and material needs, and any risks of harm.

[36] Where serious allegations are made in motion proceedings - and particularly where those allegations are hotly contested and would, if true, constitute criminal conduct - a court cannot simply prefer one party's version without a proper investigation.³ The matter before me is precisely of that character.

[37] The applicant makes serious allegations concerning substance abuse, emotional abuse and neglect of the children, parental alienation, and association with dangerous persons. The respondent makes equally serious counter-allegations, that the applicant inappropriately touched S, that he introduced both parties to cannabis, that he was under the influence at the time of the RSV hospital visit, and that he is manipulating and

² Section 28(2) of the Constitution of the Republic of South Africa, 1996; section 9 read with section 7 of the Children's Act 38 of 2005.

³ *B v M* 2006 (9) BCLR 1034 (W)

attempting to alienate S through financial inducements and deliberate humiliation of the respondent.

[38] Although S confirmed the financial inducements, the stark factual disputes cannot be resolved on the papers. The appropriate vehicle for resolution is not a summary interim order but a thorough and impartial investigation by the Family Advocate, who has the statutory mandate, expertise, and investigative tools to inquire into the best interests of minor children.⁴ Of particular urgency in that investigation is the allegation of inappropriate touching of S by the applicant, which requires immediate and expert attention and the allegations that the respondent is abusing drugs and alcohol and leaves the children unattended.

[39] With these manifest disputes of fact on the papers, the applicant has not discharged the heavy evidentiary burden required to justify this court granting the extraordinary relief of displacing the primary caregiver on an interim basis. Moreover, the well-known *Plascon Evans Rule* would require me to decide the matter on the respondent's version.

[40] In the circumstances, the application for interim guardianship and supervised contact is refused, and the matter is to be referred to the Family Advocate on an expedited basis.

[41] Hereafter, the Court will decide whether the matter should be referred to oral evidence, both by the parties and by expert witnesses, including the Family Advocate who conducted the investigation.

The voice of the child

[42] Prior to preparing this judgment, I conducted a private interview with S, in the absence of both parties and their legal representatives (although she was brought to the meeting by Mr. Morland). I obviously could not interview J as he was too young.

[43] S is eleven years old. Apart from being a little nervous and tearful at first, S was calm, articulate, and composed throughout the interview. I asked her if she understood why I had asked to see her and if she was aware of the litigation between her mother and the applicant. It was clear from her responses that she had full insight into the reasons for my wanting to see her and the dispute between her mother and the applicant.

⁴ section 4 of the Mediation in Certain Divorce Matters Act 24 of 1987; *McCall v McCall* 1994 (3) SA 201 (C); *Fraser v Children's Court, Pretoria North, and Others* 1997 (2) SA 218 (CC).

- [44] I started by emphasising that in my view children should never feel pressured by their parents, and in her case, by her mother and the applicant, to take sides and should never feel guilty about loving and wanting to spend time with the other parent. I explained that both her mother and the applicant loved her and I was sure that she loved both of them. I made it clear that although I would consider her preference as to who she wished to live with, ultimately it would be my decision.
- [45] Although I sensed some degree of coaching by the respondent and that she has been told what had been said about the respondent in the papers, S expressed a clear and unequivocal preference to continue residing with her mother. She disclosed to me that she knew what profession her mother was in but said that she understood why her mother had no choice as she had a low level of education. She indicated that after the applicant had told her what her mother used to do , and she understands she now continues to do, she had a discussion with her mother about it and she does not judge her mother; nor does it distress her. Indeed, she stated that it did not change anything for her and that she knows her mother is a good mother and she loves her and that her lack of education has left her with little choice but to pursue this profession. The latter is clearly a narrative fed to S by the respondent that needs further investigation.
- [46] I impressed upon S that the applicant loves her and wanted to spend time with her and I was sure that she also wanted to spend time with him. She said she understood that should she spend weekends with the applicant, this would be at his parents' home but did indicate that the applicant's mother has displayed a clear preference for the applicants two other children, only the one of whom she has met, and who she says visit their grandmother, but not in the presence of the applicant, who she says, "is not allowed to see them." This is an aspect that requires investigation.
- [47] I found S to be a child of evident intelligence, insight and emotional maturity well beyond her age who was capable of forming and articulating a genuine and considered view of her own circumstances and her preferences. Her demeanour was consistent with sincerity, and she showed little sign of being coached or unduly pressured, save for the issues hitherto mentioned.
- [48] The legislative and international framework governing the voice of the child in South African proceedings is well established and must be set out briefly.
- [49] Section 28(2) of the Constitution of the Republic of South Africa, 1996 provides that a child's best interests are of paramount importance in every matter concerning the child.

Section 10 of the Children's Act 38 of 2005 ("the Children's Act") gives direct expression to the child's right to participate and provides:

"Every child that is of such an age, maturity and stage of development as to be able to participate in any matter concerning that child has the right to participate in an appropriate way and views expressed by the child must be given due consideration."

[50] Section 9 of the Act re-states the paramountcy of best interests, while section 7 provides the multi-factorial framework within which those interests are assessed, which includes, expressly, the child's age, maturity, and stage of development.

[51] Section 31(1)(a) of the Children's Act further provides that before a person holding parental responsibilities and rights takes any decision involving the child, that person must give due consideration to any views and wishes expressed by the child, bearing in mind the child's age, maturity and stage of development. Sections 6(2)(a) and 6(5) of the Act similarly oblige those acting in matters affecting children to uphold children's rights as enshrined in the Bill of Rights and to ensure that children are kept informed of significant decisions affecting them.

[52] At the international level, Article 12(1) of the United Nations Convention on the Rights of the Child (UNCRC), to which South Africa is a State Party, provides that States shall assure to the child who is capable of forming his or her own views the right to express those views freely in all matters affecting the child, with those views being given due weight in accordance with the child's age and maturity.

[53] Article 12(2) specifically provides that the child shall be given the opportunity to be heard in judicial and administrative proceedings affecting the child. Article 4(2) of the African Charter on the Rights and Welfare of the Child (ACRWC), likewise mandates that a child capable of communicating his or her views shall be afforded the opportunity for those views to be heard in judicial proceedings, either directly or through an impartial representative.

[54] The Constitutional Court has endorsed the foundational importance of these instruments in *AD and Another v DW and Others (Centre for Child Law as Amicus Curiae)*⁵

⁵ [2007] ZACC 27.

- [55] In *McCall v McCall*,⁶ King J identified the child's preference as one among the relevant factors in determining best interests, noting that it should be considered where the court is satisfied that the child is capable of forming and expressing an intelligent and informed view. The court found the minor child to be "*an intelligent, articulate, persuasive, sincere and candid child*" displaying a degree of maturity and intellectual development sufficient to give his preference significant weight.
- [56] The factors considered in *McCall* were substantially codified and expanded in section 7 of the Children's Act, which now provides the primary statutory framework for the assessment of best interests. The child's preference features expressly as a relevant factor in terms of section 7(1)(i) of the Act, to be weighed according to the child's age, maturity and stage of development.
- [57] However, the weight to be accorded a child's expressed preference is not fixed and must be assessed against all the surrounding circumstances. In *Van Rooyen v Van Rooyen*⁷ the court declined to place any weight on preferences expressed by children found to be in a state of emotional confusion and susceptible to parental influence, holding that it would be "*unwise and indeed irresponsible*" to give those preferences any weight.
- [58] The critical inquiry is therefore not merely whether a preference has been expressed, but whether it is genuinely the child's own and formed view, free of manipulation, and whether the reasons underlying it reflect sufficient understanding of the child's own interests. Vulnerability to parental pressure is an established countervailing consideration.⁸
- [59] Applying these principles to the present case I find that S is eleven years old. She is, in my assessment, a child of above-average emotional and intellectual maturity for her age. Her preference to remain with her mother was clearly stated and accompanied by reasoned and empathetic articulation of her relationship with the respondent. She indicated that her mother was both her mother and her best friend and that they do lots of fun girl things together. Her measured and considered response to the disclosure by the applicant of the nature of her mother's profession reflected a profound care for her mother rather than judgment. This is inconsistent with a child who is unduly coached or

⁶ 1994 (3) SA 201 (C)

⁷ (7493/97) [1998] ZAWCHC 1

⁸ De Jure Law Journal (2023) Vol 56 and the Centre for Child Law Critical Review of South Africa's Child Participation Frameworks (2024).

pressured. The only aspect that concerned me was S volunteering that her mother did not leave them to pursue her profession for days on end that I have already mentioned. This notwithstanding, I am satisfied that her preference is genuine, informed, and of sufficient maturity to attract material weight.

[60] S's expressed preference to reside with her mother is consistent with the principle of preserving the stability of her existing care environment, which is a factor expressly contemplated in section 7(1)(e) of the Children's Act. It constitutes an independent and significant reason, over and above the evidentiary difficulties discussed in the merits analysis above, why the application for an interim change of primary residence must be refused.

[61] I further note that the applicant's disclosure to S of the intimate details of the respondent's prior occupation is a matter of serious concern warranting specific attention in the Family Advocate's investigation. Section 7(1)(f) of the Children's Act directs this court to consider the need to protect the child from any physical or psychological harm. Exposing an eleven-year-old child to information of this nature about her primary caregiver, however true, is calculated to undermine her relationship with her mother. The Family Advocate's investigation must specifically examine this conduct and its impact on S's emotional wellbeing and the parties' respective fitness as caregivers.

[62] Another aspect that requires investigation is S's disclosure that the applicant had told her that should she live with him, she would be able to live in a far nicer house and he would buy her whatever she wanted. She explained to me that she was aware of what the applicant was trying to do but knew that money was not the most important thing and she still preferred to stay with her mother.

[63] Bearing this in mind and S's stated preference to stay with her mother, it is my view that this should also apply to her younger brother. I say this because of the clear emotional bond expressed by S between her and her brother, who she says she adores and is terribly cute. In fact she told me that when she was staying with the applicant, he was frustrated with her for not spending time with him alone and always wanting to play with her brother. It would not be in either child's best interests to be separated from one another.

[64] This, however, is not the only basis upon which I find that pending the outcome of the family advocate's report and any further directions by the Court, the younger child, who is only two years old should remain with his mother and that is courts are generally

reluctant to separate young children from their mothers. This is a *prima facie* view that I agree with and without concrete evidence to dissuade me, I am not prepared to depart from.

The counter-application: Interim financial relief

[65] Pending the outcome of the Family Advocate's investigation, the respondent seeks interim maintenance for the minor children and rehabilitative maintenance for herself. These claims are brought in a counter-application in the proceedings before me. As far as I am aware divorce proceedings have not yet been instituted and thus Rule 43 relief for interim maintenance is not yet available to the respondent.

[66] On the papers before me, the following material averments made by the respondent are not convincingly answered by the applicant:

- a. The applicant was the sole financial provider for the household throughout the relationship, providing approximately R15,000 to R20,000 per month to the respondent and meeting all household costs, including medical aid, school fees, and rental;
- b. In April 2026, the applicant unilaterally removed the respondent from his medical aid, depriving the respondent of essential follow-up cancer treatment.
- c. The respondent was not employed during the relationship between the parties, has no formal qualifications beyond Grade 9, and is entirely financially dependent on irregular payments from the applicant. This, she says, has forced her to return to sex work to earn a living.
- d. The respondent's current income is approximately R3,000.00 per week, which is manifestly insufficient to meet the children's needs and her own rehabilitative requirements.
- e. The monthly rental in respect of the respondent's current residence with the children is R10,200.00.
- f. J requires a specialised lactose-free diet due to his lactose intolerance, the consistent provision of which the respondent has been unable to maintain due to financial constraints

- g. Both children attend Ashton College private school, the fees for which are borne by the applicant. S told me she loves the school and has lots of friends there. She volunteered she had previously been at another school with much bigger classes and had not managed and was held back a year. She proudly told me that there are much smaller classes in her current school and since attending this school, she now is in the top ten of the children in her class.
- h. The applicant, by his own account, is employed as general manager in his family's business which includes large supermarkets in the Super-Spar chain. He lives with his parents without paying rent, and has historically provided R15,000 to R20,000 per month for the household prior to leaving the respondent.

[67] It is necessary to provide for interim maintenance for the respondent in order to level the playing fields whilst the issue of guardianship and primary care are being investigated.

[68] The principles applicable to interim maintenance in this context are analogous to those governing Rule 43 applications in divorce proceedings. These require that the court considers the parties' existing standard of living, the needs of the children and the applicant, and the means of the paying party on a *prima facie basis*, without conducting a full maintenance enquiry.⁹

[69] The respondent has made out a sufficient *prima facie* case for interim financial relief. It is additionally just and equitable that the respondent, who, on her version, was induced to abandon her livelihood and become entirely dependent on the applicant (and has now out of necessity had to resume sex work), receives interim rehabilitative maintenance while the investigation is pending and while she undertakes the education and skills development needed to achieve financial independence.

[70] I accordingly grant financial relief in the terms set out below.

[71] I also make an Order regulating the applicant's access to the minor children on an interim basis. I firmly believe that minor children should have access to both their parents, and in the matter before me regarding S, includes the applicant. I have no doubt that the applicant loves the children and they him.

⁹ *Taute v Taute* 1974 (2) SA 675 (E).

- [72] At present the arrangement is that the applicant collects the minor children every morning and takes them to school and thereafter fetches them. I questioned how this was feasible when the applicant worked as a manager at the Spar in Pretoria and the school was on the East Rand but S explained that he only worked half day and this is how he was able to fetch them from school.
- [73] I believe that this arrangement should continue as it allows the applicant daily contact with the children. I canvassed the issue of weekend access being afforded to the applicant with S and whether every alternate weekend access was sufficient. She said it was as, in any event, the applicant works every second weekend.
- [74] Generally weekend access is not afforded to fathers of very young children. However, the applicant has had both children stay with him and his parents for five days since the parties' separation and the applicant's mother is also there to assist him with looking after J.
- [75] In view of the animosity between the parties, it is appropriate that a parental co-ordinator be appointed to manage the visits as well as the school pick- ups and drop offs. This would also assist the respondent with her emotional immaturity and her inability to control her impulsive outbursts.
- [76] Should the daily contact between the parties due to the applicant fetching the children for school and dropping the children off afterwards prove too emotionally fraught for the respondent, or cause her not to be able control her emotions in front of the children, the parental co-ordinator will need to make alternative arrangements; one of which could be that the applicant repairs the respondent's car so that she could take the children to school and fetch them, while allowing the applicant access to the children once a week on a Wednesday evening so that they can have supper with the applicant. This, however, should not be overnight access.
- [77] I have also decided that as a precautionary measure, a domestic worker should be employed by the respondent, to be paid for by the respondent, who will not only assist the respondent, but act as a carer for the minor children who can report to the Family Advocate regarding the day-to-day care of the minor children.

Order

[78] Having regard to all of the above, I make an interim order in the following terms:

A. In respect of the main application:

1. The applicant's application for interim guardianship of the minor children is refused.
2. The matter is referred to the Office of the Family Advocate, Gauteng Local Division, Johannesburg, for an expedited investigation into the best interests of the minor children and in particular with regard to their primary residence and guardianship. This includes all of the issues highlighted in this judgment warranting further investigation, and any other issues requiring oversight in the view of the Family Advocate.
3. The Family Advocate is directed to complete the investigation and file a report with this court within 60 (sixty) days of the date of this order.
4. The matter is postponed to a date to be arranged with the Registrar following receipt of the Family Advocate's report, for further directions.
5. Pending the outcome of the Family Advocate's investigation and any further order of this court, the minor children shall remain in the primary care of the respondent at their current residence.
6. Pending the outcome of the Family Advocate's investigation and any further order of this court, the applicant shall exercise contact with the minor children as follows:
 - 6.1 Every alternative weekend, from Friday at 16:00 to Sunday at 16:00 .
 - 6.2 The applicant is entitled to continue to fetch the children for school in the mornings and fetch them, following which he must return them to the respondent's residence. This is subject to the parental co-ordinator to be appointed varying this.
7. The parties are directed to appoint an agreed parental co-ordinator who should be a clinical psychologist or social worker. Should the parties be unable to agree, the court may be approached to appoint such a co-ordinator.
8. The parties are interdicted from making disparaging, demeaning or derogatory remarks about each other in the presence of the minor children and from taking any steps whatsoever to influence the minor children regarding their place of primary care.

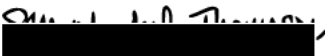
9. The costs of the main application are reserved for determination by the court that ultimately disposes of the matter.

B. *In respect of the respondent's counter-application:*

1. Pending the finalisation of the main application and any maintenance order by a court of competent jurisdiction, the applicant is ordered to pay to the respondent in respect of the minor children:
 - 1.1 The school fees of both minor children in full, paid directly to Ashton College as and when they fall due;
 - 1.2 100% of the medical aid premiums for both minor children, and 100% of all medical, dental, and related costs not covered by the medical aid, within 7 (seven) days of being presented with proof of payment;
 - 1.3. Rental in the amount of R10,200.00 (ten thousand two hundred rand) per month in respect of the property in which the respondent and the minor children reside, payable in advance on or before the first day of each month, directly to the landlord, with the first payment due on the first day of the month following the date of this order;
 - 1.4 R15,000.00 (fifteen thousand rand) per month in respect of the children's general maintenance (food, clothing, toiletries, transport, and incidentals), payable in advance on or before the first day of each month into a bank account nominated in writing by the respondent;
 - 1.5 R6,000.00 (six thousand rand) per month for the provision of a domestic worker to assist with the care of the minor children, payable in advance on or before the first day of each month into the bank account nominated by the respondent.
2. The applicant is ordered to pay to the respondent, by way of rehabilitative maintenance, the sum of R10,000.00 (ten thousand rand) per month for a period of 24 (twenty-four) months, payable on or before the first day of each month, with the first payment due on the first day of the month following the date of this order.
3. The applicant is ordered, within 7 (seven) days of the date of this order, to reinstate the respondent on his Discovery medical aid as a dependant with

cover equivalent to that which she previously enjoyed, and to maintain such cover pending any further order of court.

4. The applicant is ordered to pay the costs of the respondent's counter-application.


S.M. WENTZEL-THOMPSON
JUDGE OF THE HIGH COURT
JOHANNESBURG

HEARING

Date of the hearing: 12 May 2026 and 5 June 2026
Date of the judgment: 10 June 2026

APPEARANCES

For the applicant: Ms. Randall instructed by Metcalfe Attorneys
For the respondent: Mr. Morland instructed by Manitha Naran Attorneys Inc.

For the Applicant:

A instructed by B

For the Respondent:

X instructed by Y