

SOUTH AFRICA / JUDGMENT

A.D.V.R v J.V.R (2021/47958) [2024] ZAGPJHC 1305 (17 December 2024)

[2024] ZAGPJHC 1305**COURT**

South Gauteng High Court, Johannesburg

BEFORE

Khan JL

CASE / FILE NUMBER

2021/47958

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IN THE HIGH COURT OF SOUTH AFRICA

GAUTENG LOCAL DIVISION, JOHANNESBURG

Case No. 2021 / 47958

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

In the matter between:-

V[...] R[...] , A[...] D[...] (Born B[...]) Identity Number: 5[...] Applicant and V[...] R[...], J[...] Identity Number: 5[...] Respondent

JUDGMENT

This judgment was handed down electronically by circulation to the parties' legal representatives by e-mail and will further be uploaded to the electronic file for this matter on caselines. The date of this order is deemed to be the 17 December 2024.

KHAN JL: AJ.

- [1] The Applicant brings this application in terms of Rule 43 of the Uniform Rules of Court and seeks an order pendente lite in the following terms:

1.1 Spousal maintenance in the amount of R30,000.00 per month;

1.2 That the Respondent maintain the Applicant on a comprehensive medical aid scheme and pay all extra medical expenses in full;

1.3 That the Respondent obtains a cell phone contract for the Applicant and pay the monthly instalments thereof;

1.4 That the Respondent provides the Applicant with the garage card previously in her possession and to pay the monthly instalment thereof;

1.5 That the Respondent continues to make payments in respect of water, rates, electricity/gas, household and house owners' insurance, domestic worker and gardener, swimming pool, Wi-Fi, Netflix and levies on the matrimonial home;

1.6. That the Respondent is to obtain and pay for insurance over the Applicant's motor vehicle and to pay any excesses not covered by the insurance policy, as well as to pay for any damages caused to the Applicant's and/or third party's motor vehicle;

1.7 That the Respondent is to pay for the licences, tracker, services, maintenance, repairs, brake pads and tyres for the Applicant's motor vehicle;

1.8 That the Respondent is to pay for one overseas holiday for the Applicant per year, which shall include a return flight, visas and accommodation.

1.9 That the Respondent makes a contribution towards the legal costs of the Applicant in the amount of R 519 683.99;

1.10 that the Respondent pays the costs of this application.

[2] This Respondent opposes the Application arguing that he is paying an amount of R15 000.00 per month to the Applicant and that he will continue to do so. The Respondent alleges that a contract cellphone, a garage card, vehicle insurance and maintenance, Wi-Fi and Netflix are unreasonable and unaffordable expenses and that should the Applicant want these services, she should make payment of same from the R15 000.00 that he pays to her.

[3] In respect of the Applicant's claim for a costs contribution the Respondent alleges that the Applicant is not entitled to a contribution towards costs as she has thwarted all attempts at settlement of the matter, failed to consider and react to all reasonable, fair and equitable settlement proposals, failed to engage in mediation, has made no attempt to move the divorce proceedings forward and has unduly delayed the finalization of the divorce. In addition, that the Applicant has rejected an offer to sell the marital home and divide the proceeds equally on a 50/50% basis.

[4] The Applicant confirms that she continues to reside in the matrimonial home. The Applicant does not dispute that the Respondent makes payment of the monthly maintenance of R15 000,00, but states that the payments are not always made or made on time and are not enough. In addition, the Applicant alleges that the levies on the matrimonial home are

overdue and that she is concerned that the Respondent will decide to fully support his companion and no longer pay expenses as he has done. Her diagnosis of cancer in July 2022 makes her fearful that should the Respondent on a whim, decide to cancel her medical aid she will be in serious difficulty health wise. The Applicant indicates that she requires the security of a Court Order and a contribution towards costs.

- [5] The Respondent undertakes to continue to pay for the Applicant's medical aid and additional medical expenses not covered by the medical aid and undertakes to continue making payment in respect of water, rates, electricity household and homeowners' insurance, gardener, swimming pool chemicals and levies on the marital home. The Applicant's concern in respect of the medical aid and medical expenses not covered by the medical aid and the levies on the matrimonial home are accordingly unfounded in light of the Respondent's undertaking herein.
- [6] The Applicant indicates that the amount the Respondent currently pays was previously used to pay for all extra expenses, but is now being used to fund all her main expenses, including but not limited to out-of-pocket medical expenses in respect of her cancer treatment, cellphone, car services and petrol expenses. The Applicant's complaint thus is not that the Respondent is not paying maintenance but that such maintenance is insufficient and not commensurate with the standard of living that the parties maintained whilst they lived together as man and wife.
- [7] The Parties, who are presently 74 years old were married in community of property on the 1 June 1971, which marriage still subsists. Three children were born of the marriage between the parties. The children are all majors and no relief is sought in respect of them. The marriage has endured for a period of 53 years.
- [8] The Applicant alleges that at the time of her marriage to the Respondent she was a sample hand and the Respondent wished to become an accountant. That she assisted the Respondent by working, supporting him and contributing towards his university fees and textbooks. The Respondent completed his B Compt degree in 1976 and his articles in
- 1979. The Respondent qualified as an accountant in 1981. In 1985 the Respondent started an accounting and bookkeeping business which then merged with D[...] S[...] A[...] ("D[...]"). In 1990 the Respondent became a partner in D[...]. In 2005 the Respondent started working at U[...] I[...] H[...] ("U[...]"). The Respondent is currently the Chief Executive Officer and Chairman at U[...].
- [9] The Applicant alleges that the last time she was employed was during or about 1977, this is not disputed by the Respondent. It is further not disputed that the Respondent supported the entire family and that he would apportion an amount every month as a cash contribution to the Applicant to pay for her own expenses and the household expenses. The Applicant alleges that the Respondent completely controlled the finances, she would take care of the household and the expenses and would request funds from the Respondent when she needed extra money over and above the cash component that the Respondent paid on a

monthly basis. The Applicant does not indicate what this amount was.

- [10] The Applicant alleges that the parties had a high standard of living, described as above average with the children being provided with new cars and attending good schools and universities and that there was never a concern for money once the Respondent became partner at D[...]. The Respondent indicates that their standard of living increased as his earnings increased.
- [11] The Applicant alleges that things became undone during 2011 when the Respondent moved out of the room, they shared on the basis that it was too hot, the Respondent whilst on a family holiday to George subsequently and unbeknownst to the Applicant informed the children that the parties were separated. The Applicant commenced divorce proceedings in September 2021. The Respondent indicates that the marriage had broken down but that he would never have sought a divorce and would have continued to live with the Applicant in the marital home, albeit separately.
- [12] The Applicant alleges that in October 2021, the garage card that she had access to was taken away and in September 2022 the Respondent cancelled her cell phone contract and converted same to a pre-paid service. In addition, she had a minor accident in November 2023 and ascertained in February 2024 that her motor vehicle is no longer insured. Her motor vehicle remains unrepaired and uninsured. The Respondent alleges that he does not know anything about the cancellation of the cellphone contract, the garage card or the insurance on the Applicant's motor vehicle and submits that the amount of R15 000.00 should in any event be sufficient to cover these costs. It seems unlikely that the Respondent would not be aware of the cancellation of these services given that he was responsible for the payment thereof.
- [13] The Applicant further alleges that the Respondent is engaged in an extra marital affair since 2016 with a female companion with whom he now lives in Kelvin, Sandton and that the Respondent supports such companion. The Respondent admits that he has a girlfriend indicating that this relationship started 5 years after the breakdown of the marriage. The Respondent however denies that he is supporting his girlfriend and indicates that she has started an export business and can maintain herself.
- [14] The Applicant alleges that during December 2023 to February 2024, the Respondent did not pay the monthly maintenance, the monthly Netflix subscription or the levies for the matrimonial home. In February 2024 the Applicant realized that the Wi-Fi had been disconnected. E-mails were sent to the Respondents Attorneys and the Respondent subsequently advised that he needed to prioritize certain expenses over others. In addition, the Respondent stopped supporting the parties 36 year old son, Alvin causing Alvin to return home and to live with the Applicant.

- [15] The Applicant alleges that the Respondent is not experiencing any cashflow constraints, despite his claim in this regard and that this is evident from the fact that he is utilizing funds out of the joint estate as and when he pleases, including payments to his companion, in addition that the Respondent withdrew an amount of R2 million rand from an account held at Standard Bank as a result of dividends declared by U[...].
- [16] The Applicant alleges that the Respondent can continue to make these payments citing the fact that the Respondent made payment in the amount of R43 600.00 to his companion in May 2023, took a trip to the United States, in June 2023, is employed in various capacities, the parties lived an above average lifestyle, is involved in Jeff Van Rooyen Investment Holdings, has investments and royalties in respect of a book entitled “Unshackled”. The Applicant further alleges that the Respondent is not being transparent in respect of his business and financial dealings and refuses to reveal his true financial position, and that she has always been in the dark in respect of the financials and the joint estate.
- [17] The Applicant alleges that her expenses amount to R70 564.63 per month should she be afforded a clean break from the Respondent. It is noted that this is not the relief the Applicant seeks. Effectively thus and using the figures set out in the Applicant’s Financial Disclosure Form (“FDS”), the Applicant requires the following amounts per month, R700.00 for a cellphone, R2700.00 for fuel, R600.00 for vehicle insurance and R199.00 for Netflix, (a Netflix subscription in South Africa according to the Netflix website amounts to R199.00), R4 400 for vehicle maintenance, this is not a monthly expense and equates to R366.00 per month and a contribution to Wi-Fi which the court estimates reasonably to be in the region of R400.00. Effectively thus the additional sum that the Applicant seeks per month is an amount of R4 965.00.
- [18] The Respondent commenced his Answering affidavit with a summary of his financial position, indicating that the parties life savings are tied up in UIH. The Respondent alleges that until July 2023, he served on the Boards of 3 listed companies and that all fees for such service on these Boards were paid to U[...] C[...] (P[ty] Ltd (“U[...]”), a wholly owned subsidiary of U[...]. U[...] utilized these funds to supply his monthly income and any surplus funds were utilized.
- [19] That he has since retired from the Boards due to tenure and age of retirement and that the fees paid to U[...] has come to an end and that he is now solely dependent on dividend income from U[...], which is dependent on the cash flow of the business. That his current salary has been reduced and that payment of his salary is erratic, dependent on how well U[...] has done in any given month. The Respondent confirms that he is a director of U[...].
- [20] The Respondent alleges that the decline in income of U[...] has affected his ability to pay for certain items and that he had to prioritize payments in February 2024 as a result thereof. The Respondent further alleges that he has to forego certain luxuries in order to maintain the Applicant and himself and that the Applicant is demanding that her lifestyle be maintained to a higher standard than himself when no funds are available. In addition, that

he had not cancelled the garage card nor the cellphone contract or that the Applicant's vehicle was uninsured. The Respondent further indicates that he is experiencing flow issues and is unable to insure the Applicant's vehicle.

Various additional affidavits filed by the parties

- [21] The Applicant filed a Replying Affidavit to the Respondents Answering Affidavit, which together with Annexures amounted to 68 pages. The Respondent objected to the filing of such affidavit and then sought leave to file a Supplementary Affidavit amounting to 53 pages including Annexures, in the event the Court allowed the Applicant's Replying Affidavit.
- [22] It is trite that a Rule 43 application only makes provision for the filing of a sworn statement in the nature of a declaration by the Applicant and a sworn reply in the nature of a plea by the Respondent.[1] Rule 43(5)[2] gives the Court the discretion to hear such further evidence as will ensure a just and expeditious decision.
- [23] At the hearing of this matter, the Court disallowed the Applicant's Replying Affidavit and the Respondent's Supplementary Affidavit, on the basis that such Affidavits did not serve to clarify the issues, were in some instances a regurgitation of what had already been stated in the sworn statement and reply and were an elaboration of issues raised already. The court in exercising its discretion was of the view that the additional affidavits did not assist the Court in reaching a just and expeditious decision and in fact only served to muddy already murky waters.
- [24] The Affidavits in addition did not speak to the current expenses and earning ability of either the Applicant or the Respondent. The F[...] filed by both parties were outdated and did not give an indication of the parties' current financial status (the Applicant's F[...] was dated 26 April 2023 and the Respondent's F[...] was dated the 12 June 2023). The Court accordingly afforded the parties the opportunity to file additional submissions pertaining to income and expenses by the 6 September 2024 in terms of Rule 43(5).
- [25] A perusal of the additional documentation filed by the Applicant, indicates that the Applicant's Savings account, account number 2990216715, which had a balance of R164 528.33 on the 9 January 2023 reduced to R31 880.86 on the 2 September 2024. The Applicant's Nedbank Investment account had been closed and funds transferred into her savings account. It is alleged this has been done to pay legal fees and to sustain her lifestyle. The only income the Applicant derives presently is the amount of R15 000.00, which the Applicant is using to support both herself and her son Alvin. At some point the Applicant's sister resided with her and appears to have paid rent in the amount of R5300.00.
- [26] The Respondent in turn provided an updated schedule of his salary slips from Uranus Consultancy indicating that his net salary in 2023 of R96 132.05 (Gross R150 000.00) decreased to R66 894.13 (Gross R100 000.00) from the 31 January 2024. The last salary slip provided is dated 31 August 2024.

- [27] When regard is had to the Respondent's updated bank statements it is apparent that the Respondent receives additional amounts into his bank account from the following entities, UIH, Uranus Consultancy, JVR Investments, and Leshume Solutions. In addition, the Respondent earns royalties on book sales and an income in respect of Retirement annuities. It thus appears evident that the Respondent "is not only dependent on dividend income from UIH, which is dependent on cashflow of the business".
- [28] The Respondent, in addition, has since August 2023, at a time when he alleged, he was relying on dividend income alone, received funds into his account, in addition to his salary of R66 894.13 and made various payments to his girlfriend, S Makhuba, ("Makhuba") to wit,
- 28.1 In August 2023, income of R302 307.23 and payment to S Makhuba in the amount of R22 800.00;
- 28.2 In September 2023 Income of R257 597.25 and payment to S Makhuba in the amount of R33 100.00;
- 28.3 In October 2023 income of R220,000. and payment to S Makhuba in the amount of R6 200.00;
- 28.4 In November 2023, income of R356 558.35 and payment to, S Makhuba in the amount of R18 000;
- [29] The above does not constitute all the additional income received by the Respondent since November 2023 to date or the payments made to Makhuba but illustrates that the Respondent is not simply receiving a salary which is "dependent on cashflow of the business". In addition, it indicates that whilst the Respondent alleges to be unable to make payments that he historically made to the Applicant, because of a reduction in income, that he has no impediment to making payments to Makhuba or to the host of individuals he pays on a monthly basis, with no explanation as to why these payments are made.
- [30] The Respondent alleges that the monies paid to Makhuba constitute loans which she is repaying, yet no evidence of such loans has been produced and an analysis of the bank statements of the Respondent indicates money going out of his account to Makhuba but no corresponding income coming into the account from Makhuba. In addition, ABSA loans are made to the Respondent, with no loan agreements being produced or indication that such loans are being repaid. In fact, the Respondent concedes that in respect of the ABSA loans no repayments are being made. The Respondent is a director of U[...], U[...] consultancy, J[...] I[...], and L[...] S[...] and has access to the income of such entities, access to which the Applicant is denied.
- [31] There is no indication that the additional amounts paid into the Respondents accounts are as a result of loan agreements or any confirmation that the loans are being repaid, whilst the Credit card statement of the Respondent speaks to a high standard of living. What emerges, is a picture of an individual who is a director of various entities who transfers money to himself at will in order to subsidize what appears to be a high standard of living. This picture is not commensurate with someone who has had to downscale and "forego certain luxuries

in order to maintain the Applicant and himself”.

[32] The Applicant’s contention that the Respondent is in control of the finances of the joint estate and is utilizing same to subsidize his lifestyle appears to be correct when regard is had to the Respondent’s bank statements. The Respondent appears to prioritize payments to Makhuba and various individuals, whilst claiming to be unable to make payment of the Applicant’s

expenses that he previously paid for due to financial constraints. Payments that the Respondent was able to make previously when the parties lived together and before the Respondent became involved with Makhuba.

[33] One of the invariable consequences of marriage is the reciprocal duty of support that arises between husband and wife.[3] The scope of the duty is determined by the couples standing in the community and standard of living and is by no means confined to bare necessities.

[34] In *Taute v Taute*[4] Hart AJ held,

*“The applicant spouse (who is normally the wife) is entitled to reasonable maintenance pendente lite dependent upon the marital standard of living of the parties, her actual and reasonable requirements and the capacity of her husband to meet such requirements which are normally met from income although in some circumstances inroads on capital may be justified. I have found nothing however in the decisions to which I have been referred which justify in such maintenance the inclusion of extraordinary or luxurious expenditure even in the case, for example, of *Glazer v Glazer*, 1959*

(3) SA 928 (W), where the husband is described by WILLIAMSON, J. (as he then was), as being "very wealthy" or "very rich". The quantum of maintenance payable must in the final result depend upon a reasonable interpretation of the summarised facts contained in the founding and answering affidavits as indeed is contemplated and intended by Rule 43. It is also in my view helpful to take cognizance of the approach made in the affidavits by the applicant and the respondent respectively, bearing in mind that normally it is not the practice in these matters (although permissible) to test the evidence viva voce. A claim supported by reasonable and moderate details carries more weight than one which includes extravagant or extortionate demands - similarly more weight will be attached to the affidavit of a respondent who evinces a willingness to implement his lawful obligations than to one who is obviously, albeit on paper, seeking to evade them.

[35] The tendency in divorce matters, prior to finalization of the divorce, where spouses have separated and one or both of them have become involved in an extra marital affair, is to prioritize the needs of the girlfriend/boyfriend/partner whilst neglecting the wife/husband to whom he/she is still married. The maintenance of such girlfriend/boyfriend/partner becomes paramount and leads to the neglect of the spouse to whom a duty of support is owed. This court does not wish to make a pronouncement on such relationships, this is of course a personal decision. The practice however of prioritizing a girlfriend/boyfriend / partner, or other individuals, to whom one does not owe a duty of support, at the expense of

a spouse to whom you are still married to and to whom you owe a duty of support is something which this court finds deprecating and which it is not prepared to countenance.

- [36] I am accordingly of the view that the Respondent should make payment to the Applicant in the amount of R20 000.00 per month, which at the very least, will allow the Applicant to maintain the standard of living she had when she lived with the Respondent.

Contribution towards costs

- [37] The Applicant alleges that she does not have funds to run a trial and to appoint forensic accountants and actuaries, amend her pleading, to bring an application for an anti-dissipation order and a joinder application to join the Trustees of the Jeffrey Van Rooyen Trust to the proceedings which would be necessary in order to obtain true transparency. The Applicant seeks payment of costs in the amount of R519 683.99, indicating that she should be in the same position to litigate as the Respondent. A draft bill of costs[5] has been drafted by the Applicant's Attorney in terms of which provision has been made for the applications cited above. The bill of costs has been prepared on the basis that each application will be opposed and whilst this may be likely, it is not a certainty.
- [38] In argument, counsel for the Applicant indicated that all legal expenses to date had been paid by the Applicant's children, this was later amended to indicate that same is being paid by the Applicant. The bill of costs reflects an amount paid to date by the Applicant of R80 329.69, (this is presumably to March 2024).
- [39] The Court, in considering the additional bank statements provided on the 6 September 2024, referred to as Annexure "A"[6], identified various payments made to "Jennifer" in the amount of R134 397.05 from the 4 May 2023 to the 24 August 2024. The Court assumes that these are payments that have been made to the Applicant's Attorney, Jennifer Scholtz Attorneys. It thus appears that a large portion of the Applicant's savings are already being utilized to fund her legal expenses.
- [40] The Respondent alleges that the Applicant is not entitled to a contribution towards costs as she has thwarted all attempts at settlement of the matter as set out above. In addition, the Respondent indicates that he is struggling to pay his own legal fees, but does not indicate what the costs in respect of such fees are and neither has proof of payment been provided.
- [41] The Applicant's response to her refusal to reach settlement herein is that the Respondent has kept her largely in the dark regarding financials as he was the accountant in the family. That he has not been transparent, has not provided full disclosure pertaining to the Jeffrey Van Rooyen Trust of which the Respondent is the Founder, Trustee and Beneficiary and that the Respondent is a director of Jeff Van Rooyen Investment Holdings. It appears evident that the joint estate is not limited to the matrimonial property owned by the parties and that whilst investigations may need to be made, the parties will need to be realistic about their expectations.

[42] It is trite that a contribution toward costs is part of the duty of support which spouses owe each other, in *Cary v Cary*[7],

“The claim for a contribution towards costs in a matrimonial suit is sui generis. It has its origin in Roman Dutch procedure and has been sanctioned through many decades in our own practice (see, inter alia, Van Rippin v Van Rippin 1949 (4) SA 634 (C)). The basis of the claim is the duty of support the spouses owe each other (see Chamani v Chamani 1979 (4) SA 804 (W) at 806FH). The manner of assessment of quantum of the contribution was dealt with in the case of Van Rippin (supra) at page 639: “The quantum which an applicant for a contribution towards costs should be given is something which is to be determined in the discretion of the Court. In the exercise of that discretion the Court should, I think, have the dominant object in view that having regard to the circumstances of the case the financial position of the parties, and the particular issues involved in the pending litigation, the wife must be enable to present her case’ adequately before the court”.

[43] In the case of *AF v MF*,[8] the court stated:

“The importance of equality of arms in divorce litigation should not be underestimated. Where there is a marked imbalance in the financial resources available to the parties to litigate, there is a real danger that the poorer spouse - usually the wife - will be forced to settle for less than that to which she is legally entitled simply because she cannot afford to go to trial. On the other hand, the husband, who controls the purse strings, is well able to deploy financial resources in the service of his cause. That situation strikes me as inherently unfair. In my view the obligation on courts to promote the constitutional rights to equal protection and benefit of the law, and access to courts requires that courts come to the aid of spouses who are without means to ensure that they are equipped with the necessary resources to come to court to fight for what is rightfully theirs.

The right to dignity is also impacted when a spouse is deprived of the necessary means to litigate. A person’s dignity is impaired when she has to go cap in hand to family or friends to borrow funds for legal costs, or forced to be beholden to an attorney who is willing to wait for payment of fees - in effect to act as her “banker”. The primary duty of support is owed between spouses, and a wife who is without means should be entitled to look to the husband, if he has sufficient means, to fund her reasonable litigation costs. (The same of course applies if the husband is indigent and the wife affluent.).

[44] Having regard to the aforesaid, the fact that the parties had entered into settlement negotiations and have been unable to settle the matter is not instructive in determining whether a contribution towards costs should be made. It is apparent that the Applicant has insufficient means and limited financial resources and relies solely on the maintenance that she receives from the Respondent and the payments that the Respondent makes for her day to day living expenses. The Respondent on the other hand, has access to resources that the Applicant does not. I am satisfied that the Respondent is in a better financial position than the Applicant and is able to contribute to the legal costs of the Applicant.

I accordingly make an order in the following terms:

1. The Respondent is to make payment of the amount of R20 000.00 (twenty thousand rand) to the Applicant, pendente lite, such payment to be effected no later than the first day of each month.
2. The Respondent is ordered to make payment of the sum of R50 000.00 to the Applicant as a contribution to the Applicant's legal costs.
3. The Respondent is ordered to pay the party and party costs of this application on Scale A.

KHAN JL, AJ

Judge of the High Court

Gauteng Local Division, Johannesburg

Heard: 28 August 2024, (parties instructed to provide additional information by the 6 September 2024).

Judgment:

17 December 2024 Applicant's Counsel: Adv K Howard Instructed by: Jennifer Scholtz Attorneys
Respondent's Counsel: Adv C Britz Instructed by: Judin Combrink Inc Attorneys

- [1] 43(2) The applicant shall deliver a sworn statement in the nature of a declaration, setting out the relief claimed and the grounds

therefor, together with a notice to the respondent as near as may be in accordance with Form 17 of the First Schedule. The statement and notice shall be signed by the applicant or his attorney and shall give an address for service within eight kilometres of the office of the registrar, and shall be served by the sheriff. 43(3) The respondent shall within ten days after receiving the statement deliver a sworn reply in the nature of a plea, signed and giving an address as aforesaid, in default of which he shall be ipso facto barred.

- [1] 43(2) The applicant shall deliver a sworn statement in the nature of a declaration, setting out the relief claimed and the grounds

therefor, together with a notice to the respondent as near as may be in accordance with Form 17 of the First Schedule. The statement and notice shall be signed by the applicant or his attorney and shall give an address for service within eight kilometres of the office of the registrar, and shall be served by the sheriff.

43(3) The respondent shall within ten days after receiving the statement deliver a sworn reply in the nature of a plea, signed and giving an address as aforesaid, in default of which he shall be ipso facto barred.

- [2] 43(5) The court may hear such evidence as it considers necessary and may dismiss the application or make such order as it thinks fit to ensure a just and expeditious decision.

- [3] Crouse v Crouse 1954 (2) SA 642 O; Santam v Meredith 1990 (4) SA 265 (Tk AD) 269

[4] 1974

(2) SA 675 E at 676D,

[5] Annexure FA 13 to the Founding Affidavit

[6] Caselines 025-10 to 025-13

3

[1999] 2 All SA 71 (C); 1999 (3) SA 615 (C) at 619H-620

[8]A.F v M.F (6664/19) [2019] ZAWCHC 111; 2019 (6) SA 422 (WCC); [2020] 1 All SA 79 (WCC) (28 August 2019), at paragraphs 41-42

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Prepared on 8 October 2026 · Esheria