

SOUTH AFRICA / JUDGMENT

E.B.S v S.P (2024/119436) [2024] ZAGPJHC 1173 (1 November 2024)

[2024] ZAGPJHC 1173

COURT

South Gauteng High Court, Johannesburg

BEFORE

Nieuwoudt

CASE / FILE NUMBER

2024/119436

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REPUBLIC

OF SOUTH AFRICA

IN THE HIGH COURT OF

SOUTH AFRICA

GAUTENG

LOCAL DIVISION, JOHANNESBURG

Case

Number: 2024-119436

(1)

REPORTABLE: YES

/ NO

(2)

OF INTEREST TO OTHER JUDGES: YES/NO

(3)

REVISED: YES/NO

In

the matter between: E[...]
 B[...] S[...]
 Applicant
 and
 S[...]
 P[...]
 Respondent

JUDGMENT

Nieuwoudt, AJ

- [1] This matter came before me as an urgent application in which the Applicant is requesting that the Respondent be found in contempt of a court order dated 19 April 2024. The Applicant is alleging that the Respondent is refusing the Applicant to the two minor daughters ages 2 years old and 3 years old. An allegation that the Respondent did not deny but stated that she did that out of concern for her children's health and wellbeing. The Respondent also did not deny that she did not attend the meeting with the Family Advocate.
- [2] Although there was not proper service of the application on the Respondent, she however attended the proceedings. She received an email from the Applicant's attorney the night before the hearing of the matter and took it upon herself to appear. She did indicate that she would like the opportunity to appoint an attorney to assist her, but she was also willing to reinstate the contact.
- [3] After listening to the Respondent and hearing her concerns I decided to deal with the matter as upper guardian of the minor children. The Applicant was in court together with his representative Mr Zwane. I asked him to join his attorney and the Respondent in front of the court and proceeded to give each of them an opportunity to address the Court on what they deem the problem to be with their relationship and their co-parenting. It was clear from the conversation that the Court had with them that: –
- 3.1 There was a breakdown of communication between them.
- 3.2 And a lack of co-parenting between them.
- 3.3 In the absence of a proper parenting plan there was no mechanism in place to deal with any disputes between them.
- [4] I could have postponed the matter or removed the matter from the roll but taking into consideration Section 7(1)(n) of the Children's Act 38 of 2005, the Court was of the opinion that it would be in the best interest of the minor children that a process is started and some guidelines are put in place to put these parents on the right track to hopefully be effective co-parents for these two very young children and through that keep these two young and vulnerable children out of the court system.

- [5] I prepared a draft order which I shared with the parties and on 31 October 2024 at 11h30 the matter was called virtually to give both parties an opportunity to give their input into my proposed plan of action. The order that will be made intentionally does not deal with any long-term arrangements with the hope that the parties will use the parenting plan to deal with the finer details of co-parenting and contact arrangements.
- [6] Taking into consideration the input from the parties and the submissions heard during the hearing of the matter on 30 and 31 October 2024 I make the following order:
1. For the 4 weeks following the granting of this order visits between the Applicant/Biological Father and the minor children will take place as follows:
 - a. Every Wednesday afternoon from 15h00 to 17h00 at the residence of the Respondent/Biological Mother.
 - b. Every Saturday from 10h00 to 14h00 at the residence of the Applicant/Biological Father.
 - c. The Respondent will transport the minor children to the residence of the Applicant/Biological Father for their visits with him.
 2. Family Reconnect [email: a[...]] will be present at the handovers of the minor children between the parties to facilitate the handovers and to ensure that the parents [Applicant and Respondent] have the necessary skills to ensure that the handovers going forward take place in the best interest of the minor children.
 3. The parties are to attend an intake session with Family Reconnect on 4 November 2024 and should on receipt of this order contact them at the email address provided to confirm the time of the intake session.
 4. After the initial four weeks and subject to Family Reconnect being satisfied that this initial phase can be concluded visits between the Applicant and the minor children will take place as follows:
 - a. Every Wednesday afternoon from 14h30 to 16h30. The Applicant will pick up the minor children from school and drop them off at the home of the Respondent.
 - b. Every alternative weekend from Friday at 14h30 to Sunday afternoon at 16h30. The Applicant will pick up the minor children from school and drop them off the Respondent's home on Sunday afternoon.
 5. During the time that the minor children are with the Applicant the Respondent can call them via a video call on Saturday at 9h00 and Sunday at 9h00. The Respondent can also send them a voice note at 18h00 on Friday and Saturday at 18h00 to wish them good night. The Applicant will ensure that the voice notes are played to the minor children as part of their bedtime routine. The video calls are for the Respondent only and she is not to add any other people to the call.

6. Family Reconnect will as soon as possible begin with –
 - a. Parental guidance for both parents.
 - b. Co- parenting classes for both parents.
 - c. Conflict resolutions classes.
7. Family Reconnect must, when they deem the parties to be ready, start with the drafting of a parenting plan to regulate the exercising of parental rights and responsibilities of the parties.
8. Family Reconnect is requested to urgently assist the parties to reach an agreement around the upcoming December holidays.
9. The costs of the service provider will be shared between the parties equally.
10. The Applicant and the Respondent must take note of the provisions of Section 35 of the Children's Act, Act 38 of 2005 and the possible consequences of any non-compliance with this order might have.

NIEUWOUDT, E

ACTING JUDGE OF THE HIGH COURT

GAUTENG DIVISION, JOHANNESBURG

The Court would like to thank the parties and Mr Zwane for participating in this process. The Court can see that they both love their children and wants what is best for them.

Date of Hearing: Date of Judgment: 30 and 31 October 2024 01 November 2024 Appearances: For the Applicant: Instructed by: Mr. P. Zwane Peter Zwane Attorneys For the Respondent: Instructed by: Ms. S. Pasiya In Person

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Prepared on 9 October 2026 · Esheria