

SOUTH AFRICA / JUDGMENT

H.P v C.P (13203/2007) [2021] ZAGPPHC 659 (15 September 2021)

[2021] ZAGPPHC 659

COURT

North Gauteng High Court, Pretoria

BEFORE

D S Fourie

CASE / FILE NUMBER

13203/2007

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Policy**IN THE HIGH COURT OF SOUTH AFRICA****(GAUTENG****DIVISION, PRETORIA)****(1)**

REPORTABLE:

YES/NO

(2)

OF

INTEREST TO OTHER JUDGES: YES/NO

(3)

REVISED

15/9/2021

CASE

NO: 13203/2007

In

the matter between:

H

P[....]

Plaintiff

and

C

P[....]

Defendant

JUDGMENT

D S FOURIE, J:

- [1] This is a divorce trial that started before me during October 2018. The plaintiff is Mrs P[....] who acted in person and the defendant, her husband, had legal representation. Three children were involved. During the trial I started to get the impression that Mrs P[....] did not have the ability to conduct a trial on her own. She also started to behave inappropriately. I then decided to appoint a curator ad litem for her and the matter was postponed sine die. There was also a curator ad litem appointed for the children.
- [2] During the beginning of 2019 I was waiting for the parties to agree on a date to proceed with the trial. However, it later transpired that counsel and the attorney acting for the defendant had withdrawn from the case and I was given to understand that the curator ad litem for Mrs P[....] had also applied for an order to be discharged as her curator ad litem. At that stage I was left with a case where both parties were acting in person and the previous problem regarding Mrs P[....] proceeding on her own, was back again.
- [3] During October 2019 I wrote a letter (through my secretary) to both parties about this matter still being part-heard. I requested both of them to obtain legal representation. Mrs P[....] wrote many emails, some of them referring to "strange incidents" and others were very unpleasant to read and in bad taste.
- [4] During February 2020 I again wrote a letter to the parties pointing out that no response was received to my October 2019 letter, neither was a copy of the trial proceedings received. During March 2020 COVID-19 came and we had our first Lockdown and the rest regarding COVID-19 is history.
- [5] During January 2021 I again wrote to the parties pointing out that I still had not received any answer to my previous correspondence regarding the question if they had obtained legal representation. During the beginning of February 2021 I again wrote to the parties putting on record and pointing out to Mr P[....] that I had received many emails (through my secretary) from Mrs P[....]. I specifically pointed out that from the emails received from her, it appears that she was of the view that this Court does not have jurisdiction (notwithstanding her being the plaintiff) and that she does not intend to proceed any further in this Court. I then requested both parties to indicate and confirm whether they still want to proceed with this matter or not.
- [6] Subsequent to that the problem regarding Mrs P[....]' strange behaviour just escalated. She accused me of assisting "parental abduction and perverted paedophiles with racketeering and money-laundering and obstruct USA jurisdiction". She also threatened to appeal "the entire Judge Fourie sham in Interpol International Hague Court" and that she will not allow me to get away "with this aggressive apartheid crime". She also used foul language by telling me that "are you so f. .. desperate to tum your dirty hot Court into a Jewish Nazi gas chamber

for mothers and daughters? you need help! You are seriously sick!". She also insinuated that I am a thief and busy with a money-laundering scam. Needless to say, there is no truth in any of these defamatory statements.

- [7] I then decided to convene a meeting with both parties as well as the curator ad /item for the children, Adv Marx du Plessis. This meeting took place on Friday 10 September 2021 at 09:30 in the morning. The meeting was held on Microsoft Teams and both parties were present, as well as Adv Marx du Plessis.
- [8] During this meeting I gave the parties a brief summary of the history of this matter and I also put on record the conduct of Mrs P[...] as referred to above. I also informed the parties that they would be afforded the opportunity to make submissions regarding the way forward - whether I should recuse myself or not. Both parties addressed me in this regard as well as Adv Marx du Plessis.

Mrs P[...] gave a long speech and became abusive again. She requested that I recuse myself, whereas Mr P[...] indicated the opposite.

- [9] During this meeting it transpired that o of the three children had already attained the age of majority. The youngest child, a girl, is 16 years old. Adv Marx du Plessis indicated that the minor child is in the custody of Mr P[...] and that it appears she is well cared for. Adv Marx du Plessis, after having heard the circumstances as explained above, indicated that she is of the view that I should consider recusing myself.
- [10] I have given serious thought to what I should do in these circumstances. I take into account that the minor child is well cared -for. I also take into account that Mrs P[...] is not willing to proceed any further with this case. I advised Mr P[...] to obtain legal representation. I am no longer prepared to be abused by one of the parties as indicated above. I am also no longer prepared to be treated as if I am a criminal, in a case which is still part-heard before me. The future of this case must now be determined. I have therefore decided, taking into account all the above circumstances, that I should recuse myself as the presiding Judge. Before doing so, I think it is necessary to make an order regarding the future of this matter.

In the result I make the following order:

ORDER:

1. This matter, and any issue related to it, may start anew before another Court;
2. This matter shall not proceed any further before me as the presiding Judge, as I am recusing myself.

DS FOURIE

JUDGE OF THE HIGH COURT

SOUTH AFRICA

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