

SOUTH AFRICA / JUDGMENT

Jaffit and Another v Bellingan and Another (33526/2018) [2018] ZAGPJHC 525 (13 September 2018) [2018] ZAGPJHC 525

COURT

South Gauteng High Court, Johannesburg

BEFORE

Wright

CASE / FILE NUMBER

33526/2018

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REPUBLIC OF SOUTH AFRICA

IN THE HIGH COURT OF SOUTH AFRICA

GAUTENG DIVISION

LOCAL SEAT, JOHANNESBURG

CASE NO: 33526/2018

In the matter between:

DAVID JAFFIT FIRST

APPLICANT

MAXINE JAFFIT SECOND

APPLICANT

and

PIETER GERHARDUS BELLINGAN FIRST

RESPONDENT

DARRYL BEIRA SECOND

RESPONDENT

J U D G M E N T

WRIGHT J

1. The applicants live on a residential property in Johannesburg. Until recently they accessed their property via a remotely controlled gate driven by an electric motor. The first respondent lives next door and the electric power to the gate comes from his property. The parties had a long-standing arrangement of sorts that they would contribute to common expenses like security.
2. About 3 days ago the first respondent, without a court order unilaterally removed the motor from the gate and cut off the electricity supply. He put a manual lock on the gate and gave the applicants keys to the lock. They seek urgently spoliation relief. They fear for their security. They say that, as a fact, up until recently they have enjoyed access to their home via the remotely controlled gate.
3. The respondent says that he is not obliged to supply electricity to the gate. I make no finding on the point. Nor do I make any finding on the greater disputes between the parties. This case concerns only spoliation. The fact of the matter is that the applicants have been deprived of at least part of their former method of access. In the circumstances they have shown a spoliation.

ORDER

1. Prayers 1 & 2 of the Notice of Motion dated 11 September 2018 are granted.
2. The first respondent is to pay the applicant's costs on the party and party scale.

On behalf of the Applicants: Adv J M Hoffman

Instructed by: Swartz Weil Van Der Merwe

Greenberg Inc

011 486 2850

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On behalf of the 1st Respondent: Adv C Acker with him Adv De la Hunt

Instructed by: Pagel Schulenburg Inc.

011 463 1214 / Z Hartman

Date of Hearing: 13 September 2018

Date of Judgment: 13 September 2018

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