

SOUTH AFRICA / JUDGMENT

J.S.R v S.C.R (M473/15) [2016] ZANWHC 12 (29 March 2016)

[2016] ZANWHC 12

COURT

North West High Court, Mafikeng

BEFORE

Landman

CASE / FILE NUMBER

M473/15

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IN THE HIGH COURT OF

SOUTH AFRICA

(NORTH WEST DIVISION,

MAHIKENG)

CASE NO.: M473/15

DATE: 29 MARCH 2016

In the matter between:

[J.....] [S.....]

[R.....].....APPLICANT

And

[S.....] [C.....]

[R.....].....RESPONDENT

JUDGMENT

Landman J:

- [1] [J.....] S [R.....], the applicant, and [S.....] C [R.....], the respondent, are married in community of property. The applicant left the common home and resides on his nieces' farm. He is suing for a decree of divorce. He receives a pension of R7 220.20 per month. His expenses exceed his income. He seeks maintenance, an order that the respondent retain him on her medical aid and a contribution to his costs.
- [2] The respondent resides on the property, the former common home, with her daughter and son-in-law and her son. She has no income. Her bank statements and those of her children demonstrate this. Her daughter and her husband take care of her in exchange for taking over the steel business. The steel business has been making a loss. Her daughter and her husband pay the bond and property insurance amounting to about R1 770 and have retained the applicant as a dependent on the respondent's medical aid.
- [3] The respondent cannot be ordered to pay maintenance or make a contribution towards the applicant's costs where she has no means. The applicant may be able to save about R1 770 since the bond and insurance is being paid by the respondent's daughter and son in law. They take care of the respondent's medical aid and the applicant is retained on the medical aid.
- [4] It follows that the application falls to be dismissed. Mr Maree, who appeared on behalf of the respondent, sought an order for costs on a higher scale. However, I am of the opinion that the costs should come out of the joint estate and for this reasons I intend to order that the costs of this application shall be costs in the cause and the usual scale shall apply.

Order

[5] In the premises I make the following order:

1. The application is dismissed.
2. The costs of the application shall be costs in the cause and the usual scale shall apply.

AA Landman

Judge of the High court

APPEARANCES:

Date of hearing: 24 March 2016

Date of Judgment: 29 March 2016

Counsel for the Applicant: Ms Shepstone

Instructed by Van Rooyen Tlhapi Wessels

Counsel for the Respondent: Adv Maree

Instructed by Maree & Maree Attorneys

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