

SOUTH AFRICA / JUDGMENT

L.L v M.C.L (038505/2023) [2023] ZAGPJHC 1090 (28 September 2023)

[2023] ZAGPJHC 1090

COURT

South Gauteng High Court, Johannesburg

BEFORE

Yacoob

CASE / FILE NUMBER

038505/2023

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IN THE HIGH COURT OF SOUTH AFRICA

GAUTENG LOCAL DIVISION, JOHANNESBURG

CASE NO: 038505/2023

DATE: 21-08-2023

NO REPORTABLE

NOT OF INTEREST TO OTHER JUDGES

REVISED

In the matter between

L.L Applicant and M.C.L Respondent

J U D G M E N T

YACOUB, J: The parties are married to one another and are in the midst of divorce proceedings. The applicant brings an application that the respondent be declared a vexatious litigant in terms of section 2(1)(b) of the Vexatious Proceedings Act and ordering that no legal proceedings should be instituted by the respondent against her without leave of that court or a judge of the high court.

The applicant sets out a number of instances in which the respondent laid charges or complaints against her with the police. She also laid charges of rape against him and she contends that these charges against her were a result or in retaliation of the rape case. The applicant also complains that the respondent has brought applications for maintenance and for access to the children of the parties during the divorce which were without merit, and that there were applications for protection orders which were unsuccessful.

In addition, the applicant complains that the respondent has brought applications dealing with the close corporation which, according to the respondent, belongs to him and was transferred to the applicant to allow him to continue with his political appointment or his political office. The applications dealing with the close corporation have not yet been finalised, they are pending in the high court. The first is for the return of the close corporation to him and the other is for an interdict against the sale of property belonging to the close corporation. As far these two applications are concerned, the applicant does not place any evidence before the Court explaining why these applications are without merit.

As far as the complaints to the police are concerned, the applicant has already obtained an order interdicting any charges against her based on complaints by the respondent, pending a decision by the National Director of Public Prosecutions.

I am not satisfied that the applicant has established that she is entitled to the relief she has sought in the notice of motion, that the respondent be declared a vexatious litigant. If the respondent is harassing the applicant, that is may found a basis for different relief which has not been sought before this Court. The Court cannot make a case for the applicant, nor can the Court advise the applicant on what relief she should be seeking. The Court can only decide whether she has made out a case for the relief that she has set out in her notice of motion.

I am not satisfied that the applicant has demonstrated that the litigation instituted by the respondent was without merit and therefore that she has demonstrated that he should be declared a vexatious litigant.

For these reasons, the application is dismissed.

YACOOB, J

JUDGE OF THE HIGH COURT

DATE: 28 September 2023

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Prepared on 10 October 2026 · Esheria