

SOUTH AFRICA / JUDGMENT

M v S (8928/07) [2009] ZAGPPHC 352 (1 December 2009)

[2009] ZAGPPHC 352

COURT

North Gauteng High Court, Pretoria

BEFORE

Sapire

CASE / FILE NUMBER

8928/07

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IN

THE NORTH GAUTENG HIGH COURT PRETORIA

CASE

NO 8928/07

DATE:

1 DECEMBER 2009

In

the matter between

S.

R.

M. Applicant

vs

P.

S.

D. Respondent

JUDGEMENT

SAPIRE. A J:

This is an application in which the applicant seeks an order regarding the minor children born to the respondent of which he is the father.

The overriding facts in this matter is that the children are as they have been for some time well settled in the custody of the applicant The children reside in a home which on the evidence cannot be bettered The respondent has wide access to the children and there is no apparent prejudice to her should the order sought by the applicant be granted

Although the respondent has recently filed an affidavit setting out her differences with the respondent any change in the status quo would require that she be enabled through maintenance payments to establish a new home elsewhere This is problematical and seemingly unnecessary There is nothing to show however, that the children will be better off' if an order was made changing the present situation regarding the care and residency of the children in terms of section 18(2Ma) of the Children's Act 2005

I therefore order that

1. Parental rights and responsibilities in respect of all three minor children in regard to guardianship is awarded to both parties in terms of Section 18(2) (c) and 18(3) of the Children's Act
2. Parental rights and responsibilities in respect of all three minor children in regard to care and residency are awarded to the Applicant in terms of Section 18(2) (a) of the Act
3. Parental rights and responsibilities in respect of all three children in regard to contact is awarded to the Respondent in terms of Section 18(2Xb) of the Act and shall comprise reasonable access at all times including the right to have the children with her on the same basis as presently prevails
4. There will be no order as to costs

SAPIRE, AJ

JUDGE OF THE NORTH GAUTENG HIGH COURT PRETORIA

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Prepared on 10 October 2026 · Esheria