

SOUTH AFRICA / JUDGMENT

Marais and Another v Marrais and Another (73511/2015) [2018] ZAGPPHC 489 (29 June 2018)

[2018] ZAGPPHC 489

COURT

North Gauteng High Court, Pretoria

BEFORE

Senyatsi

CASE / FILE NUMBER

73511/2015

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IN THE HIGH COURT OF SOUTH AFRICA

(GAUTENG DIVISION, PRETORIA)

- (1) NOT REPORTABLE
- (2) NOT OF INTEREST TO OTHER JUDGES
- (3) REVISED.

Case No.: 73511/2015

29/6/2018

ANTOINETTE MARAIS

First Applicant

FREDERICK NEETLING MARAIS

Second Applicant

And

JAN-WILLEM MARRAIS

First Respondent

WENDY WEIDEMAN

Second Respondent

JUDGMENT

Senyatsi AJ

- [1] This is an application by the grand parents of the minor children for the suspension of the parental responsibilities and the rights of the Respondents, the biological parents of the minor children until such time that the parental rights and responsibilities of the Respondents are restored by this Court.
- [2] The application furthermore, concerns the granting of contact with the two minor children every alternative Saturday and alternative Sunday of the same weekend between 09h00 to 14h00 under the supervision of the First Applicant; Second Applicant or any other third party nominated by both Applicants by the Respondents.
- [3] The reliefs sought are not opposed by the Respondents with the exception of contact with the minor children. The Respondents counter-claimed that they should be allowed to be with the minor children every second week per month. They further contend that weekend visitations should be from Friday, any time after school day care, until Sunday between 16h00 and 17h00.
- [4] The counter-claim is opposed by the Applicants.
- [5] The only issue of dispute is the contact duration of the minor children by the Respondents.
- [6] The law is settled on what is in the best interest of the children.
- [7] This Court is the upper guardian of all children with its jurisdiction.
- [8] Section 692(a) of the Children's act provides that the objection of the Act is to:-
- "respect, protect, promote and fulfil the child's rights set out in the Bill of Rights, the best interest of the child standard set out in section 7 and the rights and principles set out in this Act subject to any lawful limitation."
- [9] In terms of section 9 of the Children's Act-
- "In all matters concerning the care, protection and well-being of a child the standard that the child's best interests is of paramount importance, must be applied."
- [10] Having heard counsels for both parties and considering the papers on the file, I am satisfied that the Applicants have made out a case for the relief sought.

Order

- [11] An order is therefore made in the following terms:-

[11.1] The care of G M, a minor boy born on 3 May 2011 and T M, a minor girl, born on 28 August 2012 ("the minor children") granted to the Applicants;

[11.2] Guardianship of the said two minor children is granted to the Applicants;

[11.3] The parental responsibilities and rights of Respondents are suspended until such time that their parental responsibilities and right are restored by this Court;

[11.4] The First and Second Respondents are granted contact with the minor children every alternative Saturday or Sunday on the same week-end from 09h00 to 16h00 under the supervision of the First or Second Applicant or any other third nominated by them;

[11.5] The Respondents are granted permission to bring an application on the same papers, supplemented where necessary and if good grounds exist for variation of their rights of contact as set out in terms of paragraph 4 above. and

[11.6] No cost order is issued

M. L. SENYATSI

ACTING JUDGE OF THE HIGH COURT OF SOUTH AFRICA

GAUTENG DIVISION, PRETORIA

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DATE OF HEARING

25 APRIL 2018

DATE OF JUDGMENT

29 JUNE 2018

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