

SOUTH AFRICA / JUDGMENT

Mtungwa v Maripane and Others (2021/27860) [2025] ZAGPJHC 170 (18 February 2025) [2025] ZAGPJHC 170

COURT

South Gauteng High Court, Johannesburg

BEFORE

WJ du Plessis

CASE / FILE NUMBER

2021/27860

Source: saflii.org · Research copy typeset by Esheria. Not court-issued or certified.

Source record

THE

HIGH COURT OF SOUTH AFRICA

GAUTENG

DIVISION, JOHANNESBURG

Case

no: 2021/27860

(1)

REPORTABLE: No

(2)

OF INTEREST TO OTHER JUDGES: No

(3)

REVISED: Yes

18

February 2025

In

the matter between:

ZANELE
MINENHLE MNTUNGWA
Applicant
and
PRINCESS
NOLUTHANDO MARINAH MARIPANE
First Respondent
PRESHNEE
GOVENDER ATTORNEYS
INCORPORATED
Second Respondent
THE
MASTER OF THE HIGH COURT JOHANNESBURG
Third Respondent
DIRECTOR
GENERAL OF HOME AFFAIRS
Fourth Respondent

This
judgment has been delivered by uploading it to the CaseLines digital
database of the Gauteng Division of the High Court of
South Africa,
Johannesburg, and by e-mail to the attorneys of record of the
parties. The delivery date and time is 10H00 on 18
February 2025.

JUDGMENT

DU PLESSIS J

Introduction

[1] This is an application for leave to appeal against the judgment I handed down on 4 October 2024, in which I declared that the purported customary marriage between the first respondent and the deceased was null and void, removed the first respondent as executrix of the deceased's estate and appointed Marina Naydenova Attorneys as executors. The applicant in the leave to appeal (the second respondent in the application) contends that I erred in my findings on these issues. I refer to the parties as they were in the

application.

[2] I must now determine whether the applicant has demonstrated a reasonable prospect that another court would come to a different conclusion or whether there is some other compelling reason why leave to appeal should be granted, as required by s 17(1) of the Superior Courts Act.[1] The previous test—whether another court might come to a different conclusion—has been raised to whether another court would do so.[2] I am of the view that there is no reasonable prospect that another court would come to a different conclusion.

[3] As for setting aside the Master's decision to appoint the first respondent as executrix, the procedural irregularities in the Master's appointment process were so significant that judicial intervention was warranted, for reasons set out in the

judgment.

[4] The applicant challenges the court's appointment of Marina Naydenova Attorneys as executors, arguing that this power rests solely with the Master of the High Court. However, this argument ignores the exceptional circumstances of this case. While courts generally defer to the Master in executor appointments, the exceptional circumstances of this case—fraud, procedural failures, and a missing executrix—necessitated the appointment to ensure that the interest of the minor children are protected.

[5] With regard to the finding whether a valid customary marriage existed between the first respondent and deceased, The evidence as

set out in the judgment supports the court's conclusion that there was no customary marriage, as on the evidence before the court the two core elements as emerged from case law (lobola and the handing over of the bride) were not met. The multiple, inconsistent

and fraudulent marriage certificates further undermine the first respondent's argument that they had a valid customary marriage.

[6] In the result, I am not persuaded that the appeal would have a reasonable prospect of success.

[7] Order:

1. The application for leave to appeal is accordingly dismissed with costs.

WJ du Plessis

Judge of the High Court, Gauteng, Johannesburg

For the Applicants:

A Vosloo-De Witt instructed by Marina Naydenova Attorneys

For the Respondents:

S Mathiba instructed by PGA Inc

[1] Act 10 of 2013.

[2] Mont Chevaux Trust v Tina Goosen 2014 JDR 2325.

Source & reproduction note

Judgment wording, source notices and original paragraph numbers are retained. Esheria supplies the layout and this PDF's page numbers; these are not the source pagination. This is a research copy, not an official or certified court document. Check quotations, citations and publication restrictions against the original source before relying on it.

ORIGINAL SOURCE <https://www.saflii.org/za/cases/ZAGPJHC/2025/170.html>

CASE PAGE <https://chat.esheria.ai/case-law/south-africa/mtungwa-v-maripane-and-others-unknown-topic-agpjhc-2025>

Prepared on 8 October 2026 · Esheria