

SOUTH AFRICA / JUDGMENT

OLJ v OLA (1370/2018) [2020] ZAE CGHC 92 (21 August 2020) [2020] ZAE CGHC 92

COURT

Eastern Cape High Court, Grahamstown

BEFORE

P N Kroon

CASE / FILE NUMBER

1370/2018

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IN

THE HIGH COURT OF SOUTH AFRICA

EASTERN

CAPE DIVISION, GRAHAMSTOWN

Case

No.:

1370/2018

Date

Heard: 30

July 2020

Date

Delivered: 21 August 2020

In

the matter between:

O[...]

L J

Applicant

and

O[....]

L A

Respondent

JUDGMENT

KROON AJ:

1. In this matter I handed down judgment on 3 August 2020 in terms of which I struck the matter from the roll and issued an order containing, inter alia, the following paragraphs:

“5. The Applicant is to return the two minor children, K[...] M[...] O[...] and L[...] D[...] J[...] O[...] today, 3 August 2020, to the Respondent at the venue where the investigation to be conducted by Dr Swanepoel is scheduled to commence.

6. Should the Applicant refuse to return the two minor children to the Respondent, the Respondent is authorised to enlist the services of the Sheriff of the High Court, assisted insofar as it may be necessary by the South African Police Services, to ensure that there is compliance by the Applicant with this order.
7. The Applicant is required to furnish this Court, within 7 days, with an affidavit containing an explanation for the non-compliance with the order by Bloem J and an explanation as to why, when the Applicant was requested by the Court at the hearing on 30 July 2020 to reconsider his stance and to return the children, he refused to do so.”
2. In compliance with this order the Applicant deposed to an affidavit dated 11 August 2020 which was only brought to my attention on 20 August 2020.
3. In explaining his conduct in his affidavit the Applicant confirms that he has returned the children to the Respondent and accepts that he failed to comply with the order issued by Bloem J.
4. I have noted the contents of the affidavit and, in the interest of the children, do not deem it appropriate for further action to be taken at this stage, save to record that the Applicant came perilously close to having been found in contempt of Court and having had a commensurate sentence imposed upon him, albeit in the nature of a suspended sentence.
5. It needs only to be stated that should conduct of this nature be repeated by the Applicant it will be viewed in a very serious light by the Court.
6. This judgment is to form part of the record in any future rule 43 proceedings and in the divorce action.

P N KROON

ACTING JUDGE OF THE HIGH COURT

Appearances:

For Applicant: Adv Brown instructed by Netteltons

For Respondent: Adv Beard instructed by Cloete & Co

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