

SOUTH AFRICA / JUDGMENT

P.S.M v M.M (Born R) (29257/2022) [2024] ZAGPPHC 409 (8 May 2024)

[2024] ZAGPPHC 409

COURT

North Gauteng High Court, Pretoria

BEFORE

Flatela

CASE / FILE NUMBER

29257/2022

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IN THE HIGH COURT OF

SOUTH AFRICA

GAUTENG DIVISION,

PRETORIA

CASE NO: 29257/2022

(1)

REPORTABLE: NO

(2)

OF INTEREST TO OTHER JUDGES: NO

(3)

REVISED. NO

DATE: 8/05/2024

FLATELA J

In

the matter between:

P[...] S[...]

M[...]

Applicant

And

M[...] M[...] (BORN

R[...]) Respondent

This

matter has been heard in terms of the Directives of the Judge

President of this Division dated 25 March 2020, 24 April 2020,

and 11

May 2020. The judgment and order are accordingly published and

distributed electronically. The date and time of hand-down

is

deemed to be 8 May 2024

JUDGMENT

FLATELA J

1. This is an application for leave to appeal brought by the Applicant against order number 3 granted by me on the 29 December 2023.
2. The applicant was a defendant in a divorce action that was brought by the respondent. I granted a forfeiture order against the applicant to the effect that applicant was to forfeit his claim of 50% of the plaintiff's pension interest held in the Government Employees Pension Fund.
3. The principles governing the leave to appeal are well established, but I summarise them for convenience.
4. The test for the granting of leave to appeal is set out in section 17(1) of the Superior Courts Act 10 of 2013 as follows:

“(1) Leave to appeal may only be given where the judge or judges concerned are of the opinion that:

(a)

(i) the appeal would have a reasonable prospect of success or

(ii) there is some other compelling reason why the appeal should be heard, including conflicting judgments on the matter under consideration”

5. Having considered the grounds of appeal submissions from both counsel for the applicant and respondent, I am of the opinion that there is a reasonable prospect of success on appeal that another court may find that the applicant is entitled to a share in the Respondent's pension interest held in the Government Employees Pension Fund.
6. In the circumstances, I make the following order:

1. The application for leave to appeal is granted to the Full Bench of this Division against order 3 dated 29 December 2023.
2. Costs will be costs on appeal.

Judge of the High Court

Gauteng Division

Appearances

Counsel for Applicant: Adv T E Hlokwe Instructed by: C. J. Hlabangane Attorneys Counsel for Respondent: M Fabricius Instructed by: Shapiro & Ledwaba Inc. Date of hearing: 16 April 2024
Date of Judgement: 8 May 2024

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Prepared on 13 October 2026 · Esheria