

SOUTH AFRICA / JUDGMENT

## Zana v Gwanzura (Leave to Appeal) (2025-068106) [2025] ZAGPPHC 710 (17 July 2025) [2025] ZAGPPHC 710

COURT

North Gauteng High Court, Pretoria

BEFORE

S. Potterill

CASE / FILE NUMBER

2025-068106

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IN THE HIGH COURT OF SOUTH AFRICA

(GAUTENG DIVISION, PRETORIA)

Case Number: 2025-068106

- (1) REPORTABLE: NO.
- (2) OF INTEREST TO OTHER JUDGES: NO.
- (3) REVISED.

DATE 2025-07-17

SIGNATURE

In the matter between:

YOLANDA CHARLOTTE ZANA

Applicant

and

MUNYARADZI JUSTIN GWANZURA

Respondent

This judgment was prepared and authored by the Judge whose name is reflected and is handed down electronically by circulation to the Parties/their legal representatives by email and by uploading it to the electronic file of this matter on CaseLines. The date for handing down is deemed to be 17 July 2025.

**JUDGMENT:****APPLICATION FOR LEAVE TO APPEAL****POTTERILL J**

- [1] On the grounds of appeal relating to the urgency of the matter and *lis pendens* no other court would reasonably come to another conclusion and the application for leave to appeal on these grounds are dismissed.
- [2] On the ground raised that the Court erred in finding that the relocation was reasonable because the respondent had permanent employment the leave to appeal is dismissed. The proof of employment was proven and there was no evidence to the contrary. No other Court will come to another conclusion.
- [3] The ground that the Court could not make a decision without a family advocate report is dismissed as no other court would reasonably come to another conclusion. Both parents are fit parents, the primary care was by agreement between the parties with the respondent. The applicant had put no evidence before the Court as to what contact she had with the child for the last 7 months. The main contention that the view of the child should have been presented through the family advocate was dismissed. A 41/2 year old is not of the age and maturity to give a view.
- [4] The fact that the Court applied the Plascon-Evans rule is dismissed. The applicant's own contention in the heads of argument is that the test must not be applied "rigidly".

The test was not applied rigidly. No other Court will come to another conclusion. If the application of the Plascon-Evans rule has resulted in conflicting judgments then the appeal should have been brought in terms of section 17(1)(2) "there is some other compelling reason why the appeal should be heard, including conflicting judgments on the matter under consideration."

It was however brought under a misdirection by the Court.

- [5] The following order is made:

The application for leave to appeal is dismissed with costs.

**S. POTTERILL****JUDGE OF THE HIGH COURT****CASE NO: 2025-068106****HEARD ON: 16 July 2025****FOR THE APPLICANT: ADV. I. MPOFU****INSTRUCTED BY: Marumoagae Attorneys**

FOR THE RESPONDENT: ADV. L. GROBLER

INSTRUCTED BY: Swart Weil Van der Merwe Greenberg Incorporated

DATE OF JUDGMENT: 17 July 2025

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Prepared on 9 October 2026 · Esheria