

Editorial note: Certain information has been redacted from this judgment in compliance with the law.



**IN THE HIGH COURT OF SOUTH AFRICA
GAUTENG DIVISION, JOHANNESBURG**

CASE NUMBER: 2023-059041

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

DATE: 22 December 2023

In the matter between: -

EVG

Applicant

and

AJV

Respondent

J U D G M E N T

DELIVERED: This judgment was handed down electronically by circulation to the parties' legal representatives by e-mail and publication on CaseLines. The

date and time for hand-down is deemed to be 16h00 on 22 December 2023.

F. BEZUIDENHOUT AJ:

INTRODUCTION

[1] In this rule 43 application, the applicant seeks the following relief: -

[1.1] That the respondent pays the following interim maintenance *pendente lite*: -

[1.1.1] Payment of the bond instalments, levies, rates and taxes, comprehensive household insurance as well as maintenance in respect of the erstwhile matrimonial home;

[1.1.2] Payment of the medical aid in respect of each of the applicant as well as the two minor children, including excess medical expenses not covered by the aforesaid medical aid scheme;

[1.1.3] Payment to the applicant of an amount of R12 000.00 per month towards the maintenance of the minor children;

[1.1.4] Payment to the applicant of an amount of R10 000.00 per month as spousal maintenance in respect of the applicant;

[1.1.5] Payment by the respondent of the applicant's life

insurance policy held at Discovery under policy number xxx (Classic Life Plan);

[1.1.6] That the respondent pays a costs contribution of R80 000.00 to the applicant, to be paid in two separate instalments of R40 000.00, with the first instalment to be paid within 30 days of the order being granted, and the subsequent instalment within 60 days thereafter, payment to be made into the trust account of the applicant's attorneys of record.

[2] The respondent instituted a counter-application and claims as follows: -

[2.1] That the parental rights and responsibilities regarding guardianship of the minor children as contemplated in section 18(2)(c) and 18(3) of the Children's Act, 38 of 2005 ("**the Children's Act**") are to be exercised by the parties jointly;

[2.2] That both parties have full parental rights and responsibilities to the minor children in terms of section 18(2)(a) of the Children's Act;

[2.3] That primary residence of the minor children be shared between the parties and that both parties have specific parental rights and responsibilities of contact in the following manner: -

[2.3.1] Every alternate weekend from Friday evening where the respondent will collect the minor children between 17:00 and 18:00 from the former matrimonial home until the Monday morning when the respondent will

return the children to school;

[2.3.2] Every Wednesday evening when the respondent will collect the minor children between 17:00 and 18:00 from the former matrimonial home until the Thursday morning when the respondent will return the children to school;

[2.3.3] The children's short school holidays shall alternate between the parties and long school holidays shall be equally shared between them;

[2.3.4] Easter weekend and Christmas will alternate between the parties;

[2.3.5] The respondent will have every Father's Day from 15:00 the day preceding Father's Day until 17:00 on Father's Day, even if it falls on a non-contact weekend, provided that the same arrangement shall apply to the applicant when it is Mother's Day;

[2.3.6] The parties shall equally share the minor children's birthdays;

[2.3.7] The parties will have reasonable telephonic/virtual contact with the minor children when they are in the other parent's care every day between 18:00 and 19:00 with neither party to hinder the contact and to ensure that the minor children's communication

devices are fully charged, with the audio and video in proper working order and with a sufficient data connection;

[2.4] That Ms Tanya Kriel and/or a social worker in her employ is appointed as parenting coordinator to the parties with powers as set out in annexure "AV12" to the answering papers;

[2.5] That the costs of the parenting coordinator are to be shared by the parties.

[3] The answering papers were filed late. Condonation was applied for and granted.

[4] The respondent filed a supplementary affidavit and asked for leave to allow it into evidence. The application was opposed, but not vehemently. As a court sitting as upper guardian I have extremely wide powers in establishing what is in the best interests of minor children which includes recourse to any source of information, of whatever nature, which may be able to assist this court in resolving care, contact and related disputes.¹ Accordingly, in the best interests of the minor children concerned, I allowed the supplementary affidavit.

[5] In summary, the court was called upon to determine the following issues *pendente lite*: -

[5.1] Maintenance for the minor children and the applicant;

¹ *Terblanche v Terblanche* 1992 (1) SA 501 (W) at 504C.

[5.2] A contribution towards the applicant's legal costs;

[5.3] Care and contact in respect of the minor children;

[5.4] The appointment of a parenting coordinator;

[5.5] Costs of the application.

FACTUAL MATRIX

[6] The applicant and respondent were married to each other out of community of property with the inclusion of the accrual system on 29 March 2009. Two minor children (one girl and one boy) were born of the marriage aged 10 and 7 years, respectively.

[7] It is common cause that the marital relationship between the parties has irretrievably broken down and pleadings in the pending divorce action have closed.

[8] In the divorce action the applicant (as plaintiff) claims primary residency of the children and tenders supervised contact between the respondent and the minor children. The reason for the supervised contact appears to be premised on allegations that the respondent engages in online pornography and online sex, his suicidal tendencies and his aggressive behaviour directed at the applicant, resulting in emotional trauma for the minor children.

[9] The applicant also claims spousal maintenance until death or remarriage in the amount of R10 000.00 per month, as well as medical aid cover including the payment medical excesses.

[10] In respect of maintenance for the minor children, the applicant claims payment of the monthly bond instalments, levies, rates and taxes, comprehensive household insurance as well as reasonable maintenance in respect of the former matrimonial home, payment of medical aid and medical excesses, payment of a cash maintenance amount of R12 000.00 per month and payment of the minor children's school fees.

[11] In stark contrast, the respondent claims shared residency of the children and that the parties share all expenses in respect of the children *"on an equitable basis, having due regard to their respect [sic] incomes and liabilities at the time of divorce"*.²

CONTACT

[12] The current *status quo* regarding the minor children's care and contact is that they primarily reside with the applicant while the respondent exercises contact under supervision with the children.

[13] In response to the allegations of online pornography and sex, the respondent pleaded that he attended and completed a rehabilitation course in respect of his addiction and after his attempted suicide. The respondent voluntarily elected to attend the rehabilitation program for an additional period and since then, he has not had any suicidal tendencies. He pleads further that *"[D]espite going the extra mile, the [applicant] continues to perceive [him] as a risk to himself and the minor children"*.³

[14] On 27 January 2023 the parties jointly appointed Ms Janette Hermann (**"Hermann"**) to conduct a socio-emotional assessment of the children. In

² Defendant's plea and counterclaim, paragraph 2.3.

³ Defendant's plea, paragraph 11.

light of certain allegations made during interviews with both the applicant and the respondent, Hermann included in the assessment process a risk assessment to identify any possible child abuse. Hermann conducted a *Voice of the Child* assessment.

[15] On 9 May 2023 Hermann rendered a comprehensive report.

[16] The girlchild expressed a wish to live with her mother during the week and to visit her father for sleepovers during weekends. She also stated that she wants her father to attend her extramural activities. She indicated that holidays were different and under those circumstances she wanted to spend an equal amount of time with both parents. She told Hermann that she was now used to not seeing her father during the week.

[17] The boychild on the other hand wishes to spend more time with his father during the week. He indicated that he wishes to have two sleepovers during the week, one family dinner with both parents on a Tuesday evening and alternating weekends with his father.

[18] Hermann observed the interaction between father and children and experienced it as positive. Hermann reports that on several occasions the children verbalised that they had missed him (the respondent) and that they wanted to sleep over at their father's residence.

[19] Hermann reports that the respondent became irritated when he was asked to refrain from having discussions with the applicant about the pending divorce in the presence of the children.

[20] At paragraph 11 of her report Hermann recorded that she requested the

respondent to attend a psychiatric evaluation with his current treating psychiatrist, Dr Vukovic. Dr Vukovic informed Hermann, however, that she was not able to conduct an evaluation of the respondent and hence recommended Dr Neelan Pillay to assist with the assessment. This information was relayed to the respondent by Hermann and at the time of publishing her report, Hermann had not been provided with any feedback regarding a psychiatric evaluation.

[21] The following findings made by Hermann are instructive: -

[21.1] The children presented with a secure attachment to both parents;

[21.2] No risk of any abuse was identified by either of the children;

[21.3] During the observation sessions between the children and their father, the father met all of the children's physical, emotional, intellectual and social needs.

[22] Hermann recommended that the boychild attends play therapy to equip him with and understanding of the divorce and to provide him with the necessary life skills to adjust to the divorce. It was also recommended that the play therapy includes the topic of bullying to assist the boychild with his experience of bullying at school.

[23] Hermann further recommended that the girlchild continues to see the school counsellor for ongoing support and further recommended that the girlchild attends play therapy to obtain the necessary skills to deal with the bullying she is experiencing at school.

[24] Finally, Hermann also recommended that both parents receive co-parenting coaching going forward to assist them on how to co-parent, to distinguish between discussions with the children that are appropriate and inappropriate and how to encourage the other parent's parent-child relationship at all times to ensure a secure attachment bond between the children and both parents.

[25] Contact sessions between the respondent and the children were supervised by a social worker, Ms Debbie Potgieter ("**Potgieter**"). On 14 August 2023, Potgieter rendered a report. At the time the report was rendered, Potgieter had supervised 13 two-hour visits during the period 24 March 2023 to 11 August 2023. Hermann recommended the supervision as she had concerns regarding the possibility that the respondent could share age-inappropriate information with the children relating to the divorce.⁴

[26] Potgieter specifically recorded that Hermann indicated that she did not have any concerns, specifically relating to the physical safety of the minor children and therefore only requested that Potgieter be present and able to hear the communication at all times.⁵

[27] Potgieter observed that the children were always excited to visit the respondent. This was evidenced by their verbal and non-verbal cues. According to Potgieter, the children's basic physical, material and developmental needs are met at their primary residence and that they were observed to be at ease, comfortable, relaxed and content during their visits with the respondent. Both children projected and verbalised the

⁴ Report by Potgieter, paragraph 5.3.

⁵ Report by Potgieter, paragraph 5.4.

need for normalised contact with their father. The respondent was observed by Potgieter to at times share age-inappropriate thoughts with the children. Potgieter reports that: *“These responses did not appear to come from a place of malice but rather from a lack of knowledge and insight into age-appropriate communication”*.⁶

[28] Potgieter concluded that no signs of anxiety or fear were observed with the children during their visits with the respondent and that they appeared to be comfortable in the presence of their father at his residence.

[29] On 24 May 2023 the respondent’s attorneys of record suggested the appointment of a parent coordinator to assist the parties in the phasing in of contact between the father and children. The following contact regime was suggested as an interim phasing-in measure: -

[29.1] Every Wednesday from 17:00 to 19:00 whereby the respondent shall collect the children from their residence and return them thereafter;

[29.2] Every alternating Saturday and Sunday from 09:00 to 15:00 whereby the respondent shall collect the children from their residence and return them thereafter.

[30] On 26 May 2023 the applicant instructed her attorneys to reject the proposal. However, it was recorded that the applicant is not opposed to the appointment of a parenting coordinator, provided that the respondent pays for the parenting coordinator and that the appointment and mandate of the parenting coordinator be mutually agreed on. The applicant

⁶ Report by Potgieter, paragraph 8.7.

remained unmoved on the issue of supervised contact and tendered telephonic contact.

[31] Section 6(5) of the Children's Act recognises and enshrines a child's right "*having regard to his ... age, maturity and stage of development*" to "*be informed of any action or decision taken in a matter concerning the child which significantly affects the child*".

[32] Moreover, child participation in any matter concerning that child has been codified in section 10 of the Children's Act in that: -

*"Every child that is of such an age, maturity and state of development as to be able to participate in any matter concerning that child has the right to participate in an appropriate way and views expressed by the child **must** be given due consideration."* (emphasis added)

[33] With reference to children's ability to provide information, Taylor, Tapp and Henaghan (quoted in Taylor *et al*; 2007: 69) state: -

"Research evidence shows that all children, whatever their age, are generally able to express what is important to them. This is particularly so when the emphasis shifts from the child's ability to provide information to the adult's competence to elicit, or to observe it... Furthermore, the skill of the adult engaged in ascertaining the child's views, rather than the child's level of cognitive development, plays a central role in the quality of the information elicited."

[34] Quite evidently a close attachment exists between the respondent and the children and that he poses no risk to their physical, emotional and intellectual well-being. The children also appear to be of an age and

emotional maturity where they were able to actively participate in the Voice of the Child assessment conducted by Hermann. I am therefore of the view that their wishes and considerations can and should be taken into account when the issue of an appropriate contact regime is considered.

[35] The court must however express its concern with the respondent's failure to attend a psychiatric evaluation as requested by Hermann. The respondent provides no cogent explanation why he did not go to Dr Pillay as requested by Herman. Instead the respondent attached a note from his treating psychiatrist, Dr Vukovic, dated 15 August 2023 where she *inter alia* states that the respondent is stable on his treatment, is compliant and that she is happy with his progress. Significantly, Dr Vukovic reiterates that: "*I am not a forensic psychiatrist I am his treating psychiatrist*".

[36] When a father professes to have the best interests of his children at heart, it is not unreasonable for this court, sitting as Upper Guardian, to expect him to leave no stone unturned to achieve and preserve this position. In the absence of any justification for failing to attend an evaluation with an independent psychiatrist such as Dr Pillay, the respondent creates discomfort in the mind of this court especially when the respondent asks this court to immediately move from supervised contact to shared residency and unfettered, liberal and unsupervised contact.

[37] Having expressed my reservations about the respondent's seeming reluctance to attend a further psychiatric evaluation, the court must equally express its concerns about the strong-armed approach adopted by the applicant in severely limiting the respondent's contact in the face of Hermann's and Potgieter's reports and the children's wishes to have more

time with their father. Whilst the court has some understanding for the applicant's commendable determination to feverishly protect the children's best interests, such conduct cannot be countenanced when it borders on potentially causing a tragic and irreversible breakdown in the relationship between father and children. The restricted contact regime suggested by the applicant simply cannot endure and is not realistic in circumstances where it will do nothing to forge and preserve the relationship between a non-resident parent and the children, and where there is no evidence that the respondent is posing a risk to the safety of the children. In fact, the contrary is true.

[38] Accordingly I am of the view that the contact that I intend to order will provide a *via media* between the parents' expectations and what is ultimately in the children's best interests. For the above reasons, I also intend to grant an order for the appointment of a parenting coordinator in an attempt to alleviate the acrimony between the parties and to minimise the consequential trauma on the minor children.

MAINTENANCE

[39] The respondent contends that the application for maintenance *pendente lite* was wholly unnecessary and is tantamount to an abuse of process for the following reasons: -

[39.1] All the liabilities (R19 341.00) pertaining to the former matrimonial home have always been paid by the respondent;

[39.2] The respondent has always retained the applicant and the minor children as beneficiaries on his medical aid scheme (R6 499.00);

- [39.3] The respondent was never solely liable for medical excesses and the parties used their respective incomes to make payment of these expenses;
- [39.4] The respondent offered to make payment for the children's daily maintenance (R6 000.00) and all school fees (R10 400.00) and extramurals (R979.00).
- [40] The respondent makes no tender for spousal maintenance as he contends that the applicant will have surplus funds available to her from her salary to take care of her own day-to-day expenses, although he tenders to continue to pay the premiums in respect of the applicant's life insurance and undertakes to retain her as a beneficiary on his medical aid scheme. The respondent also makes no tender in respect of the costs contribution.
- [41] When analysing the *status quo* maintenance contributions and/or what has been offered with what is claimed, the parties appear not to be that far apart. The total value of the applicant's maintenance claim for her and the children amounts to R58 989.00. This amount is made up of the bond, levy, rates and taxes, household insurance, medical aid, medical excesses, day-to-day maintenance for the children, day-to-day maintenance for the applicant, school fees, extramurals and the applicant's life insurance. The total value of the respondent's tender amounts to R44 849.50.
- [42] The main controversy axes around the maintenance for the children (the respondent tenders R6 000.00 and the applicant claims R12 000.00), maintenance for the applicant (the respondent tenders nothing and the applicant claims R10 000.00) and medical excesses (the respondent

tenders 50 % and the applicant claims 100 %).

[43] The applicant is a school teacher and earns a net monthly salary of R25 913.00. She offers extra music lessons which creates an additional source of income on average in an amount of R10 010.00 per month. Her total net monthly income therefore amounts to approximately R35 923.00 per month.

[44] The respondent is a mechanical engineer and founder of an engineering company, M (Pty) Ltd. The respondent estimates his net income from M (Pty) Ltd for the next 12 months as R348 000.00, which equates to approximately R29 000.00 per month. He estimates the total net income derived from all sources for the next 12 months would be R974 016.00, which equates to approximately R81 168.00 per month. On the respondent's own version he is by far the higher income earner. It is trite that each parent must contribute proportionate to his/her respective income.

[45] Apart from alleging that the tender that he has made to the applicant is more than reasonable and is more than sufficient to cover the applicant's and the children's monthly expenses, the respondent does not criticise the reasonableness of the applicant's and the minor children's expenses in any substantial way. The court scrutinises the applicant's and minor children's expenditure list included in the applicant's financial disclosure and conclude that the expenses listed are not exorbitant or luxurious in any way when compared with the respondent's list of expenses.

[46] The respondent in his attorney's letter of 24 May 2023 attaches a

schedule of the applicant's and minor children's expenses. The analysis reveals the following: -

- [46.1] On the respondent's version her personal expenses amount to R26 018.00 and the children's expenses to R33 519.00;
- [46.2] The aforesaid amounts include the contributions made by the respondent;
- [46.3] The applicant's actual monthly expenses (on her version) amount to R12 474.00 and the children's to R11 807.00, after deducting those contributions already made by the respondent.
- [47] When one considers the disparity in income of the respective parties, it is my view that on either party's version, the respondent's pro rata contribution should amount to two-thirds and the applicant's to one-third. When applying this formula to the cash maintenance for the children, it becomes evident that the respondent's tender of R6 000.00 falls short.
- [48] When it comes to spousal maintenance, it is common cause that the applicant is gainfully employed. However, what is not denied by the respondent is that he used to pay for the lion's share of the household expenses, which included the applicant, when the parties still lived together. Therefore the respondent's argument that the applicant is in no need of spousal maintenance is in my view not persuasive. This was certainly not the *status quo*.
- [49] Whether or not the applicant will discharge the onus of satisfying the trial court that she would be entitled to maintenance until death or remarriage

as claimed, remains to be seen and is not this court to decide *pendente lite*. There the test will be far more onerous. Rather, this court must determine a party's need for spousal maintenance *pendente lite* based on the current *status quo* and I therefore see no reasons to deviate from this approach in this instance.

[50] Unfortunately it happens often in this division that *pendente lite* spousal maintenance orders create a comfort zone for a litigating spouse and is then more often than not, used as a stratagem to protract the resolution of the divorce action and to financially debilitate the other spouse. Hence, the use of a spousal maintenance claim as a stratagem should in my view be discouraged by a court hearing a rule 43 application, especially in circumstances where a litigating spouse in need of spousal maintenance *pendente lite* is gainfully employed or demonstrates a real and factually objective ability to obtain gainful employment in the near future.

[51] The most practical approach to be followed by a rule 43 court, in my view, would therefore be to curb the duration of the spousal maintenance payable *pendente lite*. Such an approach certainly does not leave a litigating spouse who is deserving of maintenance *pendente lite* for an extended period of time, without a remedy, but it does ensure that parties make a concerted effort to finalise the divorce proceedings more effectively and expeditiously and to achieve a clean-break principle rather sooner than later.

[52] With these principles in mind, I now turn to the facts of this particular matter. As already stated, the applicant is gainfully employed and on her own version earns a comfortable income. On the respondent's version the

applicant's actual personal monthly expenses amount to R12 474.00. She already enjoys the benefit of rent-free accommodation and her pro rata contribution towards the monthly maintenance of the children amounts to approximately R4 000.00. I do however take into account that the applicant has made no allowance for holidays or any entertainment of meaningful value, save for the paltry sums towards Netflix and iCloud, whereas the respondent has made larger allowance for clothing and shoes, kitchenware and entertainment. I also take into account the fact that the applicant had to borrow money from time to time to make ends meet.

[53] Accordingly I find that the applicant has made out a case, at this stage at the very least, for a contribution towards spousal maintenance and I accordingly intend to grant an order for an amount of R5 000.00 per month for a period of six (6) months.

CONTRIBUTION TOWARDS LEGAL COSTS

[54] It is trite that a contribution towards legal costs is granted to achieve an equality of arms between litigating parties in divorce proceedings. Equally important though when considering whether or not an order for a contribution is justified, is a consideration of the triable issues in dispute in the pending divorce action.

[55] The parties are not sitting around the same fire when it comes to the issue of contact and residency. The applicant in the pending divorce action claims primary residence and tenders supervised contact, whereas the respondent claims shared residency. The applicant claims spousal

maintenance until death or remarriage and the respondent makes no tender in this regard, contending that the applicant is gainfully employed and self-supporting. The parties are seemingly also at loggerhead regarding the accrual and both instituted an accrual claim against the other. It is also clear from a reading of the affidavits in the rule 43 proceedings and the financial disclosure that there is immense distrust between the parties in that the one accuses the other of a lack of full and frank financial disclosure. This issue in itself foreshadows interlocutory proceedings.

[56] The applicant has limited financial resources and I emphasise the disparity in the parties' respective incomes. There is an apparent inequality of arms that must be remedied by an order for a contribution.⁷

[57] The applicant prepared a cost estimation totalling future and past legal fees in the amount of R304 194.00. She claims R80 000.00. In my view, the applicant has not at this stage made out a case for the appointment of an expert forensic auditor as she has not exhausted her remedies to call for proper discovery in terms of the Uniform Rules of Court. In fact, it would appear that the parties have as not asked for discovery. The amount claimed for general correspondence, does not assist in providing the court with details of the number of letters and emails envisaged to be written and received and the amount of telephonic attendances that will be made. Be that as it may, I am still persuaded that the applicant has out a case for an initial contribution towards legal costs, not in the magnitude claimed, but in an amount of R60 000.00.

⁷ *Cary v Cary* 1999 (3) SA 615 (C); *Van Rippen v Van Rippen* 1949 (4) SA 634 (C).

COSTS

[58] Both parties claimed costs of the application against the other. Both parties, to my mind, approached this court with unrealistic expectations. Accordingly, I decline to mulct any of the parties in costs and will grant the ordinary costs order in applications of this nature.

ORDER

I accordingly grant an order in the following terms *pendente lite*: -

1. The applicant and the respondent shall retain full and joint parental responsibilities and rights of care and guardianship in terms of section 18(2)(c), read with 18(3), and 18(2)(a) of the Children's Act, 38 of 2005 of the two minor children born of the marriage.
2. Primary residence of the two minor children shall remain with the applicant.
3. The respondent shall have specific parental responsibilities and rights of contact with the two minor children in terms of section 18(2)(b) of the Children's Act, in the following manner: -
 - 3.1. Every Wednesday from 17:00 to 19:00 whereby the respondent shall collect the minor children from their residence with the applicant and return them thereafter;
 - 3.2. Every alternating Saturday and Sunday from 09:00 to 15:00 whereby the respondent shall collect the minor children from their residence with the applicant and return them thereafter.

3.3. The aforesaid contact regime shall be implemented for a period of one month, commencing immediately, or alternatively, in the event that holiday arrangements away from the children's ordinary residence have already been made, by no later than 3 January 2024.

3.4. After the expiration of the one month period and pending the respondent's psychiatric evaluation as provided for in this order, the respondent shall have the following contact: -

3.4.1. Every Wednesday from 17:00 to 19:00 whereby the respondent shall collect the minor children from their residence with the applicant and return them thereafter;

3.4.2. Every alternate weekend from a Saturday morning at 09:00 when the respondent will collect the children from the applicant's residence until the Sunday evening at 18:00 when the respondent shall return the minor children to the applicant's residence.

3.5. The parties shall equally share the minor children's birthdays.

3.6. The parties shall have reasonable telephonic, virtual contact with the minor children when they are in the other parent's care every day between 18:00 and 19:00, and neither party shall hinder the contact and will ensure that the minor children's communication devices are fully charged, with the audio and video in proper working order and with a sufficient data connection.

3.7. The parties will jointly appoint a parenting coordinator. If the parties fail

to reach an agreement regarding the appointment of the aforesaid parent coordinator, she/he shall be appointed by the Family and Marriage Society of South Africa (“FAMSA”) or the Gauteng Family Law Forum. The appointment shall occur within one month from date of this order.

3.8. The parent coordinator’s power shall include, but not be limited to the following:

3.8.1 Regulate and facilitate contact between the minor children and the parties;

3.8.2 Require the parties and/or the minor children to participate in psychological evaluations or assessments if required;

3.8.3 Require the parties and/or the minor children to participate in therapy if required;

3.8.4 If the parties are unable to reach an agreement on any issue where a joint decision is required in respect of the minor children or on an issue concerning the minor children’s welfare which has become contentious, the dispute shall be referred in writing to the parent co-ordinator who shall attempt to resolve the dispute as speedily as possible and without recourse to litigation;

- 3.8.5 If the parent co-ordinator, in the exercise of his/her sole discretion, regards a particular issue raised by one of the parties as trivial or unfounded, he/she is authorised to decline the referral to such issue with written reasons to be provided therefor;
- 3.8.6 The parent co-ordinator shall be entitled to engage the services of professionals to assist him/her in coming to a considered decision;
- 3.8.7 Appoint any professional she/he deems fit to assist her/him, should she/he become unavailable or require the assistance of professional from a different field;
- 3.8.8 The parent co-ordinator may request meetings and/or request updates and/or reports from any therapists treating the minor children's or any of the parties;
- 3.9 The parties shall be bound by the decisions of the parent co-ordinator but retain the right to approach any court of competent jurisdiction for relief including any urgent and declaratory relief.
- 3.10 The costs of the parenting coordinator shall be borne by the parties in equal shares, unless the parenting coordinator directs otherwise.
4. The respondent shall subject himself to a psychiatric evaluation conducted by

Dr Neelan Pillay or any other suitable and available psychiatrist identified by Ms Jannette Hermann, within thirty (30) days of date of this order.

5. Upon receipt of the report envisaged in paragraph 4 and provided that the parties are unable to resolve the issue of contact with the assistance of the parent coordinator appointed below, either party may approach this court, on papers duly supplemented, for a variation of the interim contact set out in this order.
6. The applicant and the respondent shall within sixty (60) days from date of this order, register for an accredited co-parenting coaching program in order to assist them on how to co-parent and how to identify age-appropriate subjects for discussion with the minor children and how to encourage the other parent's parent-child relationship at all times to ensure a secure attachment bond between the children and both parents. The parties are to approach social worker, Ms Janette Hermann, for recommendations on co-parenting coaching programs, if necessary.
7. The respondent shall continue to make the following contribution towards the maintenance of the applicant and the minor children: -
 - 7.1. By payment of the monthly bond instalments, levies, rates, taxes and household insurance of the former matrimonial home;
 - 7.2. By making payment of the expenses incurred from time to time in relation to the maintenance and upkeep of the former matrimonial home and if paid by the applicant, to reimburse the applicant within 7 days upon receipt of the relevant invoice;

- 7.3. By retaining the minor children and the applicant on the respondent's current medical aid scheme or a similar medical aid with similar benefits and to make payment of the monthly premiums;
- 7.4. The respondent shall make payment of 75 % of all excess medical expenses incurred by the applicant from time to time for the benefit of the minor children, with the applicant to make payment of 25 %, such reimbursement to be made within seven (7) days after proof of the excess payment as provided. The applicant shall be solely responsible to pay for the excess medical expenses incurred for her benefit.
- 7.5. By making payment of maintenance to the applicant in favour of the minor children in the amount of R7 800.00 per month, which payment shall be made on or before the 28th day of each month, the first payment to be made on 28 December 2023;
- 7.6. By making payment of spousal maintenance to the applicant in the amount of R5 000.00 per month for a period of six (6) months, the first payment to be made on 28 December 2023;
- 7.7. By making payment of the applicant's life insurance policy premiums on the relevant due date on every month held at Discovery under policy number xxxx(Classic Life Plan);
8. The respondent shall make a first and initial contribution towards the legal costs of the applicant in the amount of R60,000.00, which amount shall be paid in three equal monthly instalments of R20,000.00, the first instalment to be made on or before 29 February 2024 and thereafter on or before the 29th of each succeeding month until the amount has been paid in full. The

payment of the cost contribution instalments shall be made into the trust account of the applicant's attorneys of record with trust account details as follows: -

Modiba Du Plessis Attorneys
Legal Practitioners Trust Account
[...] Bank
Account number: [...]
Branch: [...]
Branch code: [...]
Reference: [...]

9. The costs of the main application and the counter-application are costs in the divorce action.

F BEZUIDENHOUT

**ACTING JUDGE OF
THE HIGH COURT**

DATE OF HEARING: 20 November 2023

DATE OF JUDGMENT: 22 December 2023

APPEARANCES:

On behalf of applicant: Adv B C Bester
ben@lawcircle.co.za
Instructed by:
Modiba Du Plessis Attorneys
albert@mdpa.co.za

On behalf of respondent:

Adv N Strathern

nicky@strathern.co.za

Instructed by:

Ulrich Roux & Associates

vanessa@rouxlegal.com.