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REPUBLIC OF SOUTH AFRICA



**IN THE SOUTH GAUTENG HIGH COURT
JOHANNESBURG**

CASE NO: 04747/2013

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

.....
DATE

.....
SIGNATURE

In the matter between:

M, K L

Applicant

and

M, D J

Respondent

J U D G M E N T

TSHABALALA, J:

[1] This is an application in terms of Rule 43 in terms whereof the applicant seeks maintenance for herself and two minor children, including the following relief:

1. The respondent retains the applicant and minor children in his medical aid scheme and be liable for the payment of premiums.
2. The respondent continue paying for the monthly bond instalments, crèche, swimming lessons for the minor son, security, telephone and the applicant's life policy with Discovery.
3. The respondent make a contribution of R4 000,00 towards the applicant's legal costs.

[2] The parties are both employed live apart and have two minor children. The children are aged seven years and 4 years respectively.

[3] The applicant earns a net salary of R19 601, 86 and the respondent's net salary is R35 495,66.

[4] According to the applicant, the respondent has continued paying for the following expenses: bond instalment (R4 276); medical aid for himself, the applicant and the two minors (R795); crèche for the 4 year old (R2 642); swimming lessons for the 7 year old (R370); security (R465); telephone

(R250); applicant's life policy (R390) and school fees for the 7 year old (R4 860). The total amount paid for these items is R14 048,00.

[5] According to the respondent his expenses excluding those admitted by the applicant include the following: car repayment (R4 331); retirement annuity (R2 918); gym membership (R206); car insurance (R1 328); life insurance for both parties (R1 256); DSTV (R170); travelling expenses for 80 km per day to go to work (R 3000). The total hereof is R13 039,00.

[6] The applicant has indicated that she need R4 000,00 for her and the children's grocery which is for twenty days as the respondent has the children on the remaining ten days. According to the respondent he needs R2 500,00 for his and the children's groceries for ten to twelve days when the children are with him.

[7] The respondent has indicated that he pays R8 000,00 for his accommodation for rental and R1 269,00 for municipality rates.

[8] On behalf of both parties, it was argued that certain items listed in their respective expenses were excessive.

[9] Although agreeable to this fact, I am, however, of the view that certain facts militate against disallowing or reducing them. Rental for an individual person for R8 000,00 does appear to be excessive. However, taking into consideration that the respondent has the children with him for ten to twelve

days per month, that the rented property has three bedrooms and is fully furnished, this amount is not so unreasonable for such a property that it can be said to be a luxurious expenditure. Having said this, I am, however, of the view that he can scale down to accommodation of at least R7 000,00 thereby saving a R1 000,00.

[10] The applicant on the other hand can save by reducing certain expenses such as cigarettes which is a luxury, personal entertainment, household cleaning, which she can incorporate in the groceries, birthday parties and gifts.

[11] The respondent is already paying R14 048,00 towards the maintenance of the applicant and the minor children which constitutes 40% of his income. This amount exceeds what the applicant has claimed for the maintenance of the children viz R12 552,44.

[12] In the list of expenses none has added consumables such as bread and milk and pocket money for the children which the savings I have alluded to above will cover.

[13] I am accordingly of the view that over and above what the respondent is paying for, he can afford to pay at least R1 000,00 cash component of maintenance for the children and the appellant can augment the balance with her savings.

[14] The respondent will need more time to either find a cheaper accommodation or adjust his living standard to raise the R1 000,00 that I have indicated he can save.

[15] Taking into consideration the respective earnings of both parties, their expenses and the fact that, I have not been alerted of any issue which renders the settlement of the divorce action between the parties, incapable of attaining, I am satisfied that no case has been made out for a costs contribution.

[16] In the premises, I make an order in terms of the draft marked "7" dated today.

**N D TSHABALALA
JUDGE OF THE SOUTH GAUTENG
HIGH COURT, JOHANNESBURG**

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Date of Judgement : 20 August 2013