

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

REPORTABLE: NO
OF INTEREST TO OTHER JUDGES: NO
REVISED.
DATE: 16/4/2021

Case no.: 46539/2018

In the matter between:

L: L	First Applicant
L: D	Second Applicant
and	
V: N	Respondent

JUDGMENT

ROBINSON AJ:

[1] In this matter the first and second applicants seek that full parental responsibilities and rights pertaining to the care, contact, guardianship and maintenance of the minor child E[....] V[....] be granted to them in terms of sections 23 and 26 of the Children's Act 38 of 2005 and that the respondent's parental rights pertaining to care and guardianship be terminated in terms of section 28 of the Children's Act, subject to certain exceptions. A regime to regulate the manner in which respondent is to have access to the minor child is also proposed.

[2] When the matter was first called before me on Monday 12 April 2021, I requested both counsel to interact with Mrs Labuschagne, the social worker and, to the extent possible, to agree the terms of a proposed draft order. I was concerned in particular to ensure that I was in possession of all relevant facts concerning the well-being of the child, considering that some considerable time has passed between the first report of the social worker and the bringing of this application.

[3] I am indebted to both counsel and Mrs Labuschagne for their assistance. During the hearing of this application on 15 April 2021, Mrs Labuschagne was present throughout and was able to confirm to me that:

[3.1] The minor child is in a secure and stable environment with both the applicants, the second applicant not being her natural father. Having been in his care since her infancy, she has formed a secure bond with the second applicant. The second applicant cares for her as if she is his own daughter.

[3.2] Both parties are in agreement that there is no reason not to believe that the second applicant is a loving and beneficial father to the minor child, a view supported by Mrs Labuschagne.

[3.3] At the same time both parties as well as Mrs Labuschagne agreed on the importance of the minor child knowing and establishing a relationship with her biological father, the respondent. Whilst the respondent will not be successful in a complete opposition to the relief sought, I wish to emphasise the importance of the fact that he did indeed oppose the application by which the applicants seek to place the bulk of guardianship and parental responsibilities in the hands also of the second applicant. It is important that the role of the respondent as the biological father be acknowledged and it may well in time be significant to his daughter that he was seen to fight for her. I therefore emphasise that no order made in these proceedings by this Court should be read by the respondent as a criticism of the fact that he did oppose these proceedings. To the contrary, his opposition is of beneficial significance in my view to his daughter and has served the crafting of an order by consent between the parties such that the establishment of his future relationship with his daughter is secured and encouraged. In this

regard I am grateful for the degree of co-operation between the parties and trust that it will continue as such.

[3.4] The proposed draft order is in the best interests of the child.

[4] The facts support a finding that the first and second applicants provide the day-to-day care, support and stability of the minor child. They also demonstrate the importance of the respondent developing his relationship with his daughter. In my view a case for the relief in the draft order has been made out.

[5] In the circumstances I make an order in terms of the draft provided with this short judgment marked "X".

R M ROBINSON
[Acting Judge of the High
Court, Gauteng Local
Division, Johannesburg]

DATES OF HEARING: 15 April 2021

DATE OF JUDGEMENT: 16 April 2021

APPEARANCES:

COUNSEL FOR APPLICANT: Adv. T Engelbrecht

INSTRUCTED BY: Louw Strydom Incorporated

COUNSEL FOR RESPONDENT: Adv. J Cordier

INSTRUCTED BY: Githiri Correira Christie Incorporated