

(Inlexso Innovative Legal Services) of
IN THE HIGH COURT OF SOUTH AFRICA
GAUTENG DIVISION, JOHANNESBURG

CASE NO: 33546/2020

DATE: 2022-02-15

REPORTABLE: NO
OF INTEREST TO OTHER JUDGES : NO
REVISED

In the matter between

T[....]: H[....] A[....]

Applicant

and

T[....]: D[....] B[....]

Defendant

J U D G M E N T

WEPENER, J: This is an application brought by the applicant pursuant to the Rules and in particular Rule 43. During the course of last year, when it commenced, the matter came before Wilson AJ. At that time the learned judge was not satisfied with the evidence placed before the Court in relation to a claim for maintenance and issued an order that the applicant may file a further affidavit to deal with the financial needs of the minor children and that the respondent may respond to that affidavit. Wilson AJ dismissed the applicant's claim for a contribution towards cost as he found that "both parties

are people of considerable means". And that neither party was in need of financial support from the other party pending the divorce. Wilson AJ reserved the question of costs.

The parties filed further affidavits. The applicant filed affidavit setting out various expenses including such as a hotel cost for a family dog when she and the minor children intend going on holidays five times a year. I refer to this to show the extent of the lavish if not outrageous claims made by the applicant against the respondent. An analysis of the detailed claims leaves one with a clear impression that every possible step has been taken to claim such a high amount as is possible albeit in my view wholly unreasonable.

There is, however, a serious flaw in the application. The respondent avers that the applicant withdrew and withdraws huge amounts from a company in South Africa which amounts are transferred to a trust of which the applicant and the minor children are the beneficiaries. The applicant's, supplementary affidavit annexes a letter by her attorney which explains it thus: she transferred the funds from the company to the trust and from the latter to the applicant's personal account. There is consequently no dispute regarding the applicant's conduct in this regard. The respondent pointed this out and during argument. Ms Killops on behalf of the applicant complained that the applicant did not have the opportunity to deal with the respondent's version. But there is no merit in this complaint. The applicant's own version was to set out, the facts and in relation to the transfer of the funds from South Africa to the trust and ultimately to her. It is not correct that the applicant did not have the opportunity to deal with this point which she introduced into the papers. In fact, the respondent made his assertion in his initial and answering affidavit prior to the applicant filing her supplementary affidavit.

On the facts and the papers before me, the applicant appears

to take money from the company in which the parties are directors and that she now wants the respondent to pay huge amounts in addition thereto. This cannot be countenanced. In these circumstances, I find that the applicant's application falls to be dismissed with costs. The applicant is also to pay the costs reserved by Wilson AJ.

.....

WEPENER, J

JUDGE OF THE HIGH COURT

DATE: