



THE SUPREME COURT OF APPEAL  
REPUBLIC OF SOUTH AFRICA

**MEDIA SUMMARY – JUDGMENT DELIVERED IN THE SUPREME COURT OF APPEAL**

From: The Registrar, Supreme Court of Appeal  
Date: 28 September 2012  
Status: Immediate

*Please note that the media summary is intended for the benefit of the media and does not form part of the judgment of the Supreme Court of Appeal.*

***Brossy v Brossy***

The Supreme Court of Appeal (SCA) today set aside an order of the Western Cape High Court, Cape Town in an appeal concerning maintenance.

Mr and Ms Brossy were married to each other. Two children were born of the marriage. The parties were divorced in 1998 and the appellant (Mr Brossy) agreed to pay maintenance for the children.

In March 2007, the respondent (Ms Brossy) who appeared in person, approached the Maintenance Court with a view to obtain a variation order to increase the maintenance for the children. The magistrate dismissed the application in August 2009.

Ms Brossy then appealed to the Western Cape High Court, Cape Town. The high court was confronted with a materially incomplete record and consequently could not deal with the merits of the appeal.

The high court did not strike the matter from the roll, as would normally be the case, because the interests of children were at stake. Instead it ordered that the matter be remitted to the maintenance court to be heard afresh before another magistrate.

Mr Brossy then appealed against that decision to the SCA. The SCA was confronted with the same incomplete record which lacked portions of the oral evidence and the exhibits such as bank statements which were referred to in parts of the record.

During the hearing of the appeal, Mr Brossy's legal representative undertook to assist Ms Brossy to complete and reconstruct the record. In the light thereof, the SCA set aside the order of the high court. It substituted that order with an order postponing the matter in order to give Ms Brossy an opportunity to rectify the record so that the merits of the appeal could be dealt with by the high court.