

**IN THE HIGH COURT OF SOUTH AFRICA  
(GAUTENG LOCAL DIVISION, PRETORIA)**

Case No: 2023/130478

In the matter between:

**MR. V.M** Applicant

And

**MS. N.C** 1<sup>st</sup> Respondent

**MINISTER OF JUSTICE AND CORECTIONAL** 2<sup>nd</sup> Respondent

**SERVICES**

**MINISTER OF SOCIAL DEVELOPMENT** 3<sup>rd</sup> Respondent

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**NOTICE IN TERMS OF RULE 16A**

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**TAKE NOTICE THAT** the applicant instituted legal action in the above Honourable Court on 08 December 2023.

**TAKE NOTICE THAT** the applicant's application raises the following Constitutional issues:

1. "Whether failure by the Children's Act 38 of 2005 ("**the Act**") to exclude the biological father of a child conceived through rape committed by the biological mother from the definition of a parent as contemplated in section 1 of the Childrens Act, is inconsistent with

the Constitution and and therefore invalid”.

2. Whether the definition of a parent, in terms of the Act should be interpreted to exclude the biological father of a child conceived through rape committed by the biological mother of the child.

**TAKE FURTHER NOTICE** that any interested party may, with the written consent of all the parties to the proceedings, given not later than 20 days after this notice has been filed, be admitted therein as *amicus curiae* upon such terms and conditions as may be agreed upon in writing by the parties.

**TAKE NOTICE THAT** the terms and conditions agreed upon may be amended.

**TAKE FURTHER NOTICE** that the written consent referred to above shall, within five days of its having been obtained, be lodged with the Registrar and the *amicus curiae* shall, in addition to any other provision of the Rules, comply with the times agreed upon for the lodging of the written argument.

**TAKE FURTHER NOTICE** that if the interested party is unable to obtain written consent as contemplated herein, he or she may, within five days of the expiry of the 20-day period prescribed above, apply to the Court to be admitted as an *amicus curiae* in the proceedings. Such application shall—

- 1 Briefly describe the interest of the prospective *amicus curiae* in the proceedings;
- 2 Clearly and succinctly set out the submissions which will be advanced by the prospective *amicus curiae*, the relevance thereof to the proceedings and his or her reasons for believing that the submissions will assist the court and are different from those of the other parties; and
- 3 Be served upon all parties to the proceedings.

**TAKE FURTHER NOTICE THAT** any party to the proceedings who wishes to oppose an application to be admitted as *amicus curiae* shall file an answering affidavit within 5 (five) days of the service of such application upon such party. The answering affidavit shall clearly and succinctly set out the grounds of such opposition.

**TO THE REGISTRAR/CLERK: KINDLY** place this notice on the notice board designated for the purpose recorded in Rule 16A(1)(c) and affix your date stamp upon the notice to indicate the date upon which it was placed on the notice board in accordance with Rule 16(A) (1)(d).

**DATED AT JOHANNESBURG ON THIS THE 5<sup>th</sup> DAY OF JUNE 2024.**



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**MARWESHE ATTORNEYS.**

Attorneys for the Applicants  
2<sup>nd</sup> Floor, West Tower  
Nelson Mandela Square  
Maude Street  
Sandton  
Johannesburg  
2146

Regional Office- 3<sup>rd</sup> Floor Building 2  
Brooklyn Office Park  
Pretoria 570  
Ferhsen

Tel : (012) 141 1641

Fax: (086) 439 1476

Email: [mabu@marwesheattorneys.co.za](mailto:mabu@marwesheattorneys.co.za)

Ref: M Marweshe/VM.10.23CM

**TO : REGISTRAR OF THE ABOVE  
HONOURABLE COURT**

**AND TO:**

The first Respondent  
Duo Via Centrale  
1 central Road Sandton  
Johannesburg

**AND TO:**

The Second Respondent  
The Minister for Justice and Correctional Services  
Alu Building, 28<sup>th</sup> Floor  
316 Thabo Sehume Street  
Pretoria

**AND TO:**

The Third Respondent  
The Minister for Social Development  
HSRC Building, 134 Pretorius Street  
North Wing,  
Pretoria