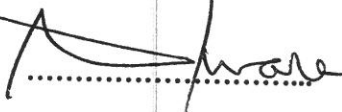


**IN THE HIGH COURT OF SOUTH AFRICA
GAUTENG LOCAL DIVISION, JOHANNESBURG**

CASE: 5122/2011

(1)	REPORTABLE: YES / NO
(2)	OF INTEREST TO OTHER JUDGES: YES / NO
(3)	REVISED.
14/06/17.....	
Date	ML TWALA

In the matter between:

MORELL – VAN ZYL, DIANNE WINDSOR

APPLICANT

And

VAN ZYL, DEMO

RESPONDENT

JUDGMENT

TWALA J

1. Before me, is an application for leave to appeal the judgment and order of this Court granted on the 4th May 2017 which provides as follows:
 - I. The respondent is in contempt of paragraph 1 of the Court order of 17 October 2016;
 - II. The suspended sentence handed down in terms of the order of the 17 October 2016 is uplifted and further suspended for a period of 30 days from the date of this order on condition that the respondent pays the applicant the sum of R225 000.00;
 - III. The sheriff of this Honourable Court is authorised and directed to arrest the respondent should the respondent fail to pay the said sum of R225 000.00 to the applicant within 30 days from the date of this order;
 - IV. The respondent is ordered to pay the costs of this application.
2. For the sake of convenience the parties hereto shall be referred to as in convention.

3. This case came before me as contempt of Court proceedings since the respondent failed to comply with the Court order granted by this Court on the 17 October 2016 which ordered the respondent to pay a sum of R225 000.00 to the applicant being arrear school fees. Further, the respondent was found to be in contempt of the Court order and sentenced to ninety (90) days imprisonment which sentence was suspended on condition that he is not found to be in contempt of the Court order.
4. It was not in dispute that the respondent paid an amount of R100 000.00 in respect of arrear school fees directly to the school and not to the applicant in compliance with the Court order. Therefore, the issue before this Court was whether to implement the suspended sentence or not.
5. The respondent now applies for leave to appeal the order of this Court which was that he comply with the Court order of the 17 October 2016 within thirty (30) days failing which the suspended sentence will be put into operation.
6. In my view the respondent's contention that the Court should have taken into account that he had paid a sum of R100 00.00 directly to the school when it made the order on the 4th May 2017, is misplaced. The issue before the Court was whether the respondent was in contempt of the Court order and indeed he was in contempt. It was upon this Court then to put into operation the suspended sentence imposed by the Court on the 17 October 2016.
7. It is my respectful view that there are no reasonable prospects that another Court may come to a different conclusion in this case and

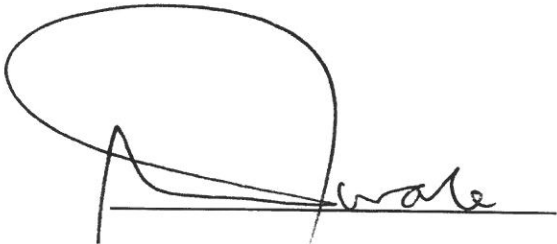
therefore the appeal has no reasonable prospect of success. The respondent's application for leave to appeal falls to be dismissed.

8. The respondent has involved the applicant in unwarranted litigation instead of him complying with the Court order. He has failed to comply with both Court orders of the 17 October 2016 and 4 May 2017. In my view the respondent has no regard for the Court and its orders. He is abusing the Court process in an attempt to evade complying with the Court order and thereby delaying the execution thereof.

9. I agree with counsel for the applicant that the Court should show its displeasure against the conduct of the respondent and mulct it with punitive costs.

10. In the circumstances I make the following order:

- I. The application for leave to appeal is dismissed;
- II. The respondent is liable to pay the costs of the applicant on the scale as between attorney and client.

A handwritten signature in black ink, appearing to read 'Twala', is written over a horizontal line. The signature is stylized with a large, looping initial 'T'.

M L TWALA J
JUDGE OF THE HIGH COURT
GAUTENG LOCAL DIVISION

Date of hearing: 08 June 2017

Date of Judgment: 14 June 2017

For the Applicants: Adv. S.S GREEN

For the Respondents: Adv. G. OLWAGEN-MEYER