

REPUBLIC OF NAMIBIA



HIGH COURT OF NAMIBIA MAIN DIVISION, WINDHOEK

JUDGMENT

Case No: HC-MD-CIV-MOT-GEN-2018/00386

In the matter between:

ANALDITO GOMES

APPLICANT

and

MARTHA STELLA NELAGO AUALA

FIRST RESPONDENT

IDA MARIA AUALA

SECOND

RESPONDENT

JOSEPH AUALA

THIRD RESPONDENT

Neutral Citation: *Gomes v Auala* (HC-MD-CIV-MOT-GEN-2018/00386) [2019]
NAHCMD 48 (25 January 2019)

CORAM: PRINSLOO J

Heard: 25 January 2019

Delivered: 25 January 2019

Reasons: 08 March 2019

Flynote: Costs – Attorney and client costs – To follow the event but in some circumstances court can award costs at its discretion – Costs on punitive scale – Award of – Exceptional circumstances and pursuant to discretion judicially exercised.

Summary: The respondents requested reasons for the cost order made on 25 January 2019. The reasons thereto are hereby as follows.

REASONS FOR THE ORDER OF COSTS

Introduction

[1] On 25 January 2019, having heard and considered counsels' arguments on the issue regarding costs, the Court made an order in the following terms:

- '1. Respondent's prayer for costs is dismissed.
2. Cost is granted in favor of the Applicant on an attorney and client scale.
3. Should the parties require written reason same need to be requested in writing and will be provided in terms of the Practice Directions.'

[2] Thereafter, the Court received a letter from the respondents legal practitioners dated 07 February 2019, requesting reasons for the above order.

[3] Herewith are the reasons for the order the court made on 25 January 2019.

Factual background

[4] On 27 October 2018 the applicant brought an urgent application against the respondents in which the applicant prayed for the following:

1. Condoning the non-compliance with the forms and service provided for by the Rules of the above Honourable Court and hearing this application as one of urgency in terms of Rule 73.
2. Declaring that the first to the third respondents are in contempt of the temporary access order granted by the Children's Court for the district of Windhoek on 12 October 2018, in terms of section 14(8) of the Children's Status Act, 6 of 2006;
- 3 Ordering the first to the third respondents to forthwith hand over Georgina to the applicant as stipulated in the said Court Order;
4. Varying the Children's Court order, dated 12 October 2018 to grant the applicant additional access to Georgina in Windhoek from 14h00 on Friday 2 November until Sunday 4 November 2018 at 18h00;
5. Ordering the first to third respondents to comply with the remainder of the stipulations of the Children's Court order, dated 12 October 2018;
6. Granting the applicant leave to approach this Honourable Court on the same papers at a later stage, duly amplified and modified if necessary, to convicting the first to third respondents for contempt of court and to sentencing the respondents to a fine or such other punishment as the court may deem fit;
7. Ordering the respondents to pay the costs of this application on a punitive scale as between attorney and client, which costs should include that of one instructing and one instructed counsel.
8. Further and/or alternative relief.'

[5] The papers were duly filed on the respondents and the matter was opposed by their legal practitioner.

[6] The application was heard on Saturday 27 October 2018 as the court regarded the matter as inherently urgent as it related to the interest of a minor child.

[7] The Ruling of this court after hearing the parties was as follows:

'1 The court condones the non-compliance with the forms and service provided for by the Rules of this Court and hears this application as one of urgency in terms of Rule 73.

2. Interim access of the minor child is granted to the Applicant in the following terms:

2.1 unsupervised access from 18h00 - 21h00 on 27 October 2018.

2.2 unsupervised access from 08h00 - 18h00 on 28 October 2018.

3. Applicant must surrender his passport to Mr Katjivena, the legal practitioner for the Respondent, from 18h00 on 27 October 2018 to 18h00 on 28 October 2018.

4. The case is postponed to 29 October 2018 at 08h30 in chambers for obtaining hearing dates and dates for filing of papers in respect to the further conduct of this matter.'

[8] Pursuant to the court order of 29 October 2018, the opposing papers were filed by the respondents, however on 02 November 2018 this court recorded that the issue of access became settled between the parties and that the only remaining issue was one of costs, which is then the reasons for the matter *in casu*.

Brief Background

[9] In order to make a decision on the issue of cost, it is necessary to briefly consider the background of this matter which gave rise to the urgent application.

[10] This matter has a sad history as it relates to a little girl, G.A, who is at the center stage to the dispute between her biological father, the applicant herein, and her maternal grandparents and maternal aunt, the respondents herein.

[11] Until 2017, G.A was residing with her late mother, Florence, and the applicant in Cape Town. The couple was never married. Florence fell ill and passed away during September 2017. After the passing of Florence, it was apparently agreed between the applicant and the respondents that G.A would stay with her maternal family for a period of six months, which would have been a transition period for G.A after the passing of her mother.

[12] However, what ultimately lead up to the urgent application started shortly after Florence was laid to rest. In the time since her passing, issues arose regarding her last will and testament, allegation of abduction were leveled against the applicant and a

subsequent urgent application followed in the High Court of South Africa (Western Cape High Court, Cape Town)¹, in which matter was settled between the parties.

[13] During this same period, the respondents applied for custody or guardianship following the death of a guardian² at the Children's Court, Windhoek. This application was opposed by the applicant on 23 April 2018. It must also be noted that a counter-application was filed during May 2018.

[14] There were a vast number of correspondences exchanged between the legal practitioners of the parties regarding access to the minor child and then on 06 July 2018, the legal practitioner for the respondents proposed a visitation schedule setting out dates when the applicant may visit G.A in Windhoek.

[15] The proposed schedule was as follows:

- a) 13-15 July 2018;
- b) 18-19 August 2018;
- c) 19-22 September 2018- memorial anniversary of the late Florence Auala (G.A's mother) Wednesday –Sunday;
- d) 27-28 October 2018;
- e) 20 November – G.A's birthday dinner;
- f) 24 November – G.A's birthday party with friends and family;
- g) 24 December 2018 – Christmas celebration with Auala family;
- h) 28-30 December 2018- Mr. Gomes celebrate his birthday week with G.A.

[16] It should be noted that the dates of 26 to 28 September 2018, 24 November 2018 and 24 December 2018 are dates that were apparently reserved for the Auala family.

¹ Case 7370 of 2018.

² In terms of s 21 (5) of the Children Status Act, 6 of 2006.

[17] It is the case of the applicant that he had difficulty in getting access to his daughter in spite of the aforementioned agreement reached between the parties. The applicant maintains that the agreement was that he would have unsupervised visits with his daughter but she would not sleep over at his place. The proposed visitation dates were accepted on behalf of the applicant by his legal practitioner, with the exception of the three dates as set out in paragraph [16] above, to which the applicant proposed alternatives.

[18] The applicant further maintains that he only managed to have access to G.A once after accepting the visitation schedule and that was the weekend of 16 to 17 July 2018, which weekend was also fraught with conflict. The applicant henceforth filed an application for right of access to the minor child, which was served on the respondents on 08 October 2018 but withdrawn on 10 October 2018. The applicant then filed an application for temporary access on 12 October 2018 which was dealt with on an *ex parte* basis, which was granted by the Commissioner of Child Welfare, Windhoek in terms of s 14(8) of the Act,³ in the following terms:

'The application for temporary access order is granted in favour of the applicant – **ANALDITO GOMES**. The applicant- **ANALDITO GOMES** will have temporary access to the child concerned- **G P G A- BORN ON 20 NOVEMBER 2013** on the following terms:

1. 26 October 2018 until 28 October 2018 in WINDHOEK
2. 23 October 2018 (sic) until 25 November 2018 in WINDHOEK
3. 21 December 2018 until 06 January 2019 in CAPE TOWN
4. 25 January 2019 until 27 January 2019 in WINDHOEK
5. 22 February 2019 until 24 February 2019 in WINDHOEK
6. 22 March 2019 until 24 March 2019 in WINDHOEK
7. April 2019- Easter weekend in WINDHOEK
8. May 2019 school holiday in CAPE TOWN
9. 23 August 2019 until 25 August 2019 in WINDHOEK

³ Children's Status Act, 6 of 2006 was repealed by the Child Care and Protection Act, 3 of 2015 which came into operation on 31 January 2019.

10. The child must be picked by the applicant-**ANALDITO GOMES** at the residence of the respondent on **Fridays** at **14h00**. The child must be dropped off by the applicant-**ANALDITO GOMES** at the residence of the respondents on **Sundays** at **18h00**.
11. In the event that the applicant – **ANALDITO GOMES** is unable to exercise his temporary access right he must give the respondents at least one (1) day prior notice.'

[19] This order and its contents came to the attention of the respondents' legal practitioners on 25 October 2018 and filed their opposing papers on the afternoon of 26 October 2018. The respondents averred in their papers that they received the *ex parte* application from the offices of the Commissioner of Child Welfare but not the temporary access order.

[20] On 26 October 2018 and as per the interim access order granted to him, the applicant and his legal practitioner attempted to obtain access to G.A without success. The assistance of the Ministry of Gender Equality and Child Welfare and the Namibian Police were sought to assist the applicant to give effect to the court order but it also bore no fruit.

[21] The applicant then brought an urgent application to this court on 27 October 2018.

[22] This court, after hearing submissions from the parties but without considering the merits of the application, granted an order setting out interim access to the applicant for 27 and 28 October 2018, subject to certain conditions. The matter was then postponed to 29 October 2018 for the setting of a hearing date in this matter and filing of papers in respect of the further conduct of the matter.

[23] On 29 October 2018, the matter was postponed to 02 November 2018 to allocate a hearing date to the matter.

[24] On 02 November 2018, the court was informed that parties have reached settlement and the following was recorded:

'Having heard **ADV HETTIE GARBERS-KIRSTEN**, on behalf of the Applicant and **KAUNA ANGULA**, on behalf of the Respondents and having read the Application for **HC-MD-CIV-MOT-GEN-2018/00386** and other documents filed of record;

And whereas the issue of access has been settled between the parties:

IT IS HEREBY ORDERED THAT:

1. The applicant shall have access to his minor child, G P G A as follows:

1.1 23 – 25 November 2018, Windhoek;

1.2 21- 28 December 2018, Windhoek;

1.3 25 – 27 January 2019, Windhoek;

1.4 22 – 24 February 2019, Windhoek;

1.5 22 – 24 March 2019, Windhoek;

1.6 26 – 28 April 2019, Windhoek;

1.7 24 – 26 May 2019, Windhoek;

1.8 7 – 9 June 2019, Windhoek;

1.9 26 – 28 July 2019, Windhoek;

1.10 30 August – 1 September 2019, Windhoek;

1.11 27 – 29 September 2019, Windhoek;

1.12 18 – 20 October 2019, Windhoek;

1.13 15 – 17 November 2019, Windhoek; and

1.14 13 – 15 December 2019, Windhoek.

1.15 Applicant will pick up G from the residence of the second and third respondents, No: 1 Kestrel Street, Hochlandpark, Windhoek at 08h00 and he will return her to the same residence on the same day at 18h00.

1.16 The applicant will hand his passport to Ms Elize Angula upon arrival in Windhoek and Ms Elize Angula will return his passport to him at 18h00 at the residence of the second and third respondents after his access to G.

2. The case is postponed to 25/01/2019 at 09:00 for Interlocutory hearing (Reason: Hearing on the issues of costs).

3. Heads of argument must filed as follows:

3.1 Applicant to file five (5) ordinary days prior to date of hearing;

3.2 Respondents' to file three (3) ordinary days prior to date of hearing.'

[25] As is clear from the aforementioned order, the parties could not settle the matter on the issue of costs. The applicant prays for a cost order in favor of the applicant on an attorney and client scale. The respondents in turn pray for a cost order in favor of the respondents on an attorney and own client scale.

Argument on behalf of the applicant

[26] It was argued on behalf of the applicant that since G.A is living with the respondents, the applicant had difficulty in having access to her. Mrs. Garbers-Kirsten argued that various attempts were made by the applicant's legal representative to secure access but they had no success. A visitation schedule, which was proposed by the respondents and accepted by the applicant, proposed that the applicant would have access to G.A over the weekend of 27 to 28 October 2018. Due to the difficulties as alleged by the applicant, he proceeded to apply on an *ex parte* basis for interim access at the Children's Court, Windhoek, which was duly granted. In terms of the said order, the applicant had access to the minor child for the weekend commencing 26 October 2018 to 28 October 2018 in Windhoek.

[27] According to Mrs. Garbers-Kirsten, the respondent's legal practitioner apparently received the *ex parte* application from the Office of the Commissioner of Child Welfare but did not receive the temporary access order. The respondents apparently filed their

opposing papers and proceeded to file a notice of appeal in terms of Rule 116 of the Rules of the High Court on the afternoon of 26 October 2018, which she argued was irregular as the Children Status Act provides for an appeal process.

[28] Mrs. Garbers-Kirsten argued that on the respondents' own version, the temporary access order duly came to the attention of their legal practitioner and that of the respondents on 25 October 2018. Despite knowledge of this order, the respondents persisted with their refusal to grant the applicant access to G.A for the weekend commencing 26 October 2018.

[29] Mrs. Garbers-Kirsten maintained that the applicant had a court order as well as a letter for the respondents' legal practitioner offering the applicant access yet when he attempted to enforce the court order, the respondents did everything to not grant him (the applicant) access to G.A.

[30] She further argued the fact that the court order was wrongly granted by the Commissioner of Child Welfare does not detract from its validity. Mrs. Garbers-Kirsten further advanced that on the Friday afternoon of 26 October 2018, the respondents' legal practitioner communicated to the legal practitioner of the applicant that they have filed an appeal and even if the applicant had an order, it was suspended.

[31] It was argued that the respondents did not act *bona fide* and only paid lip service to the offer to grant access and the allegation that there was no objection to the applicant having access to G.A.

[32] Mrs. Garbers-Kirsten argued that the costs should follow the event and as the applicant was substantially successful in his application, cost should be granted in his favor and that the court should disapprove of the respondents' behavior that prompted the application and the court should therefor impose costs on a punitive scale.

[33] Mrs. Gabers-Kirsten also pointed out to the court that the matter was settled during a settlement meeting, which resulted in a subsequent court order dated 02 November 2018. She emphasized the fact that the matter was not withdrawn.

Argument on behalf of the respondent

[34] Mrs. Angula argued on behalf of the respondents that the applicant withdrew both the Children's Court application and the urgent application without any tender of costs.

[35] In this regard, she argued that on 01 November 2018 the legal practitioners met to discuss possible settlement in respect of access to the minor child, where after the parties agreed to make the settlement agreement in respect of the access rights an order of court.

[36] Mrs. Angula argued that it cannot be argued that the applicant was substantially successful in his application as the interim order granted by this court was essentially similar to the proposed visitation rights by the respondents, with specific reference to the fact that the child does not overnight with the applicant and that the applicant hands over his passport pending the access to the minor child and was therefore a departure from the prayers sought by the applicant. Mrs. Angula submitted that the order granted is at variance with the application and that none of the applicant's relief as set out in his notice of motion was granted. She stated that the withdrawal of the case was made voluntarily after the applicant's counsel carefully considered the answering affidavit.

[37] It was further argued that the interim access order granted in the Children's Court was irregular and erroneously granted and therefore the applicant opted to withdraw the application relating to the temporary access order.

[38] The conduct of the applicant was described as reprehensible in that the applicant has mulcted the respondents into costs of many litigation processes. In this regard Mrs. Angula referred to two abortive Children's Court applications wherein no tender for

costs was made by the applicant, all this despite the fact that the respondents made a reasonable proposal for access to the minor child.

[39] It was pointed out to the court that it is common cause that the respondents made a proposal for access rights which the applicant initially accepted but did not want to comply therewith. Applicant apparently frequently gave short notice of his visitation and refused to hand in his passport at the police station. Applicant insisted on spending weekends with G.A despite his previous conduct of abducting the minor child. Mrs. Angula argued that in light thereof, the applicant abused court process in obtaining an interim access order.

[40] It was submitted that upon consideration of all the facts in this matter, it would be unfair if the respondents carry their costs and in addition thereto the applicant had not made out a case as to why the cost should not follow his withdrawal of the application. Therefore, so it was submitted, the application should be granted with cost on an attorney and own client scale.

Legal Principles on Attorney and Client costs

[41] *Herbstein and Van Winsen*⁴ qualify the fundamental rule relating to awards of costs as follows:

'Upon judicial discretion and must be exercised on grounds upon which a reasonable person could have come to the conclusion arrived at. In leaving the magistrate (or judge) a discretion,

.... the law contemplates that he should take into consideration the circumstances of each case, carefully weighing the various issues in the case, the conduct of the parties and any other circumstances which may have a bearing upon the question of costs and then make such order as to costs as would be fair and just between the parties. And if he does this, and brings his unbiased judgment to bear upon the matter and does not act capriciously or upon any wrong

⁴ The Civil Practice of the High Court of South Africa, Fifth Edition at page 954-955. (without the footnotes).

principle, I know of no right on the part of a court of appeal to interfere with the honest exercise of his discretion.

Even the general rule, viz that costs follow the event, is subject to the overriding principle that the court has a discretion in awarding costs.'

[42] The general rule, namely that costs follow the event, that is, the successful party should be awarded his or her costs. This general rule applies unless there are special circumstances present. Costs are ordinarily ordered on the party and party scale. Only in exceptional circumstances and pursuant to a discretion judicially exercised, is a party ordered to pay costs on a punitive scale.⁵

[43] The basis for attorney and client costs was accurately stated by Tindall JA in *Nel v Waterberg Landbouwers Ko-operatiewe Vereeniging*⁶ in the following words:

'The true explanation of awards of attorney and client costs not expressly authorised by Statute seems to be that, by reason of special considerations arising either from the circumstances which give rise to the action or from the conduct of the losing party, the court in a particular case considers it just, by means of such an order, to ensure more effectually than it can do by means of a judgment for party and party costs that the successful party will not be out of pocket in respect of the expense caused to him by the litigation.'

[44] Some of the instances that may justify the court awarding costs on the punitive scale, namely (a) instituting vexatious and frivolous proceedings; (b) dishonesty or fraud of the litigant; (c) blameworthy conduct of the said litigant; (d) reckless or malicious proceedings; (e) deplorable attitude or conduct of the litigant towards the court.⁷

Application of the law to the facts

⁵ *Usakos Town Council v Jantze and Others* 2016 (1) NR 240 (HC); also see A C Cilliers in *Law of Costs Service Issue 22* at 4.09.

⁶ 1946 AD 597 at 607.

⁷ A C Cilliers *supra* at 4.13-4.19; *Lazarus v Government of the Republic of Namibia (Ministry Of Safety And Security)* (2) 2018 (1) NR 56 (HC).

[45] In applying the law to the facts, I must point out that I will not consider the whole history of this matter, as the main application⁸ and counter-application is currently pending before the Children's Court and to my understanding the hearing is scheduled for March 2019.

[46] It is therefore important to note that many allegations are levelled against the opposing parties but I will not consider the finer nuances and merits thereof.

[47] What is important to me is to consider what gave rise to the urgent application that served before me on 27 October 2018 as it will explain the subsequent cost order and the scale on which it was awarded.

[48] It is common cause that there was an agreement between the parties regarding access to the minor child and that a subsequent court order was issued by the Commissioner of Child Welfare, Windhoek, albeit maintained on behalf of the respondents that this order was *ab initio* void.

[49] The applicant maintained throughout that in spite of the access arrangement reached between the parties, he was unable to enforce the said agreement and it is important to consider the correspondence attached to the founding and answering affidavits. It must however be pointed out that due to the history of the matter, extensive correspondence were exchanged between the legal practitioners of record and it is not necessary to refer to all of it. Reference will only be made to those that are relevant for purposes of this ruling.

[50] From the correspondence exchanged between the parties, it is clear that the respondents were aware at the very least of the application that the applicant filed with the Children's Court for temporary access.⁹ This is further evident from the letter dated 23 October 2018 wherein they confirm receipt of the application on 12 October 2018. In

⁸ Application for custody/guardianship after death of guardian in terms of s. 20 and 21 of the Children's Status Act.

⁹ It would appear that the service of the documents was effected by the Clerk of Court in terms of Regulation 8(3) of Children's Status Act.

the correspondence of 23 October 2018, the respondents' legal practitioners requested an indulgence from the plaintiff's legal practitioner to file their opposing papers by 25 October 2018.

[51] On 25 October 2018 further correspondence was directed by the applicant's legal practitioner to the respondents' legal practitioner referring them to the terms of the interim order obtained on 12 October 2018, with specific reference to paragraphs 1 and 10 the court order,¹⁰ further advising the respondents that the applicant will fetch G.A. at the designated date and time, i.e. Friday 26 October 2018 at 14:00. In the said correspondence, the legal practitioners of the respondents were also advised that in the event of resistance by the respondents, such resistance shall be dealt with by the Gender Based Violence Department, presumably from the Namibian Police, and a case for contempt of court will be opened.

[52] The respondents' legal practitioners swiftly responded and directed correspondence to the applicant's legal practitioner on the same date stating the following:

'Kindly take note that no order was granted in terms of interim access to the minor child on 12 October 2018. This much is clear, that the order only operates if not opposed. The order was opposed which makes it ineffectual. We attended to the offices of the Children's Court and spoke to Yvonne, who informed us we have 14 days to oppose your application.'

In light of the aforementioned and until the application has been properly heard and an order of Court is made, your client has not access to the minor child. In other words, your client will not be allowed to pick up the minor child tomorrow. The Gender Based Violence Department shall be informed to not act on your threats but in accordance with the law. Our client shall engage on the pending criminal case against your client. Please also take note that, we shall approach court on an urgent basis if your client proceeds with the opposed order.'

¹⁰ Paragraph [18] supra

[53] From the countless correspondence exchanged between the legal practitioners, it is quite evident that the respondents and their legal practitioners were aware of the existence of the interim court order dated 12 October 2018 but had no intention to comply with the court order. This is apparent from the correspondence from the office of the respondents' legal practitioners dated 26 October 2018, which states as follows:

'We advise that the Magistrate erred in granting you client interim access of the minor child when she is well aware that there is a continuous and opposed custody battle between the parties and specific opposition to your application for interim access.

Your client can under no circumstance be allowed to take the child as proposed. We have lodged an appeal in the High Court attached hereto marked as annexure "A". We are sure you are aware of the effect and operation of an appeal against an order of court.'

[54] It would appear that this general approach of the respondent then paved the way for the urgent application that followed in the wake of the failed attempts of the applicant to have access to G.A.

[55] The stance taken by the respondents is in stark contrast to the access arrangement that was agreed to between the parties in July 2018, which included the weekend of 27 to 28 October 2018, and respondents' commitment to maintain good relations with the applicant in the interest of the minor child.

[56] There might be merits in the argument of the respondents that the Commissioner of Child Welfare should not have issued the order due to the ongoing court proceedings between the parties, however, right or wrong, a valid court order was issued by the Children's Court in terms of the Children's Status Act, 6 of 2006, and even though it might ultimately be held to be invalid or void, it is nevertheless 'lawful' within the meaning of the relevant Act until set aside by a competent court. The order for temporary access granted to the applicant by the Commissioner of Child Welfare was done in terms of s 14(8) of the Act, which in essence provides that a temporary *ex parte* order remains in force until such time as the consideration of an application for a court

order confirming or discharging the interim order. The leave to appeal in terms of the High Court Rules does not suspend the interim order granted by the Children's Court. There are specific statutory provisions in the Children's Status Act for lodging an appeal in respect of an order issued in terms of the said Act. The respondents did not follow this recourse available to them.

[57] This principle was clearly enunciated in *BV Investments 264 CC v FNB Namibia Holdings Limited*¹¹ where Parker AJ when he stated as follows:

'[9] In this regard, one must not lose sight of the legal reality in our law and in terms of the principle of rule of law, which is so enshrined in the Namibian Constitution that a decision of the court is binding and must be obeyed and implemented unless and until it has been set aside by a competent court. See *Standard Bank Namibia Limited v Maletzky* (I 3956/2009) [2013] NAHCMD 131 (17 May 2013) (Unreported).'

[58] I am fully in agreement with the sentiments of Parker AJ in this regard, and this is the point on which this issue of costs turns for me. The order by the Commissioner of Child Welfare effectively gave the applicant the right of access to G.A. on 26 October 2018 as from 14:00, which order was not complied with by any of the respondents.

[59] Having considered the conduct of the respondents and the instructions given to their legal representatives to refuse the applicant access to the minor child, in spite of a court order and an agreement between the parties, and which ultimately gave rise to the urgent application on 27 October 2018 cause me to come to the conclusion that the respondents were *mala fides* in this matter.

[60] On the basis of the legal principles as discussed and reasons advanced, I am satisfied that the conduct of the respondents justifies an order for cost on an attorney and client scale and that a party-and-party costs order will not be suffice and therefore this court exercised its discretion in granting the costs order in favour of the applicant on 25 January 2019.

¹¹ (I 362/2010) [2015] NAHCMD 6 (29 January 2015).

JS Prinsloo
Judge

APPEARANCES:

APPLICANT: H GARBERS-KIRSTEN (with her F KISHI)
Instructed by Weder, Kauta and Hoveka, Windhoek.

RESPONDENTS: E ANGULA
Angula Co, Windhoek.