



IN THE HIGH COURT OF SOUTH AFRICA
GAUTENG DIVISION, JOHANNESBURG

CASE NO: 2019/39788

1. Reportable: No
2. Of interest to other judges: No
3. Revised

Signed electronically by Wright J

A handwritten signature in black ink, appearing to be "Wright J", is displayed within a rectangular box.

Wright J
12 May 2023

In the matter between:

VOMBE, CARLITOS VASCO

PLAINTIFF

And

ROAD ACCIDENT FUND

DEFENDANT

Neutral Citation: *Vombe Carlitos Vasco v Road Accident Fund* (Case No: 39788/2019) [2023] ZAGPJHC 467 (12 May 2023)

JUDGMENT – WRIGHT J

WRIGHT J

1. The plaintiff seeks default judgment at trial, the defence of the RAF having been struck out. Ms Steyn appears for the plaintiff and Ms Makhathini for the RAF.
2. I allowed Ms Makhathini to address me as in my view, I need to consider various questions. Both Ms Steyn and Ms Makhathini presented helpful argument.
3. Ms Makhathini seeks a postponement. The plaintiff, she says is a foreigner and this may well impact on the question of what he may claim. There appears to be pending, the case of Adam Mudawo v Minister of Transport and the RAF. Such a case appears on caselines as a case in Pretoria under number 11795/22. The issue seems to be the legality of a directive issued by the RAF concerning foreigners.
4. Ms Makhathini suggests that there is case, possibly between the same parties pending in the Constitutional Court. I could not find such a case on the Constitutional Court website, but Ms Makhathini may well be correct. In my view, it does not matter for present purposes whether or not the Mudawo case, or a similar case is before the High Court in Pretoria or the Constitutional Court.

5. I am told that my brother, Baqwa J postponed recently a similar case in the Johannesburg High Court for this reason. That case appears to be Chola v RAF 4182/19.
6. In my view, it would be wise to postpone the present case pending a decision on the matter.
7. A judge faced with a request for judgment at trial following a striking out of the defence still needs to consider the evidence and the law before granting an order.
8. There seems to be disagreement between the parties as to the factual circumstances surrounding the plaintiff's status and in the circumstances, even if the matter were to proceed now, I would want clarification, from both sides, as to the correct factual situation.

ORDER

1. The trial is postponed sine die.
2. Costs reserved.



GC Wright

Judge of the High Court

Gauteng Division, Johannesburg

HEARD : 11 and 12 May 2023

DELIVERED : 12 May 2023

APPEARANCES :

PLAINTIFF Adv Lindi Steyn

steyn.lindi@vdelaw.co.za

082 264 0068

Instructed by Van Der Elst Attorneys

011 731 0000

rhino@vdelaw.co.za

DEFENDANT State Attorney

Phindile Makhathini

073 689 4920

phindilem1@raf.co.za