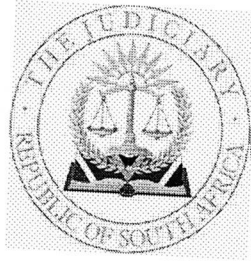


IN THE HIGH COURT OF
GAUTENG DIVISION,



SOUTH AFRICA
JOHANNESBURG

CASE NO: 047352/2023

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

Wright J
25 May 2023

In the matter between:

IDOLA (PTY) LTD, TWIN CITY REALITY (PTY) LTD

APPLICANT

And

**THE CITY OF JOHANNESBURG METROPOLITAN
MUNICIPALITY**

1ST RESPONDENT

**THE MUNICIPAL MANAGER OF THE CITY OF
JOHANNESBURG METROPOLITAN MUNICIPALITY
JOHANNESBURG WATER (SOC)**

2ND RESPONDENT

CITY POWER (SOC)

3RD RESPONDENT

4TH RESPONDENT

Neutral Citation: *Idola (Pty) Ltd, Twin City Reality (Pty) Ltd v The City Of Johannesburg Metropolitan Municipality & 3 Others* (Case No: 047352/2022) [2023] ZAGPJHC 578 (25 May 2023)

JUDGMENT

WRIGHT J

1. The applicant companies seek urgently, orders that water and other municipal services be restored to a residential building they own. There are persons residing there in over 300 households. Some of the persons impacted by the cutting of services are children. They need municipal services daily. Related relief is sought.
2. The dispute with the respondents goes back years. Much litigation has flowed.
3. On 20 October 2020, by agreement, Siwendu J granted an order that services be restored immediately and that the respondents be interdicted from withholding services pending the outcome and finalization of a meeting between the opposing sides. About 60 days seems to have been the time frame for resolution of the dispute.
4. Despite the time frame, the dispute rages on.
5. According to the latest account from the Municipality, dated 24 April 2023, the applicants owe over R6m for services.
6. It is essential for applicants, in cases like the present that they ring fence disputes and continue to pay what is not in dispute, unless, possibly, they show that they are in credit.
7. The greater dispute cannot be decided now and the applicants do not ask me to do so.
8. In a replying affidavit the applicants say that there are three areas of dispute, electricity, sewerage and refuse. The applicants say that there is a total

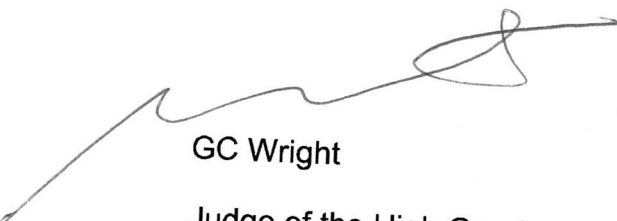
overpayment of R9 644 646,10 that is, that they are in credit, as at 1 May 2023. The applicants provide much detail.

9. The question now, where an applicant seeks a temporary interdict is whether the applicants show a prima facie right though open to some doubt, or, put differently, whether the respondents have cast serious doubt on the applicants' case.
10. I ruled that the matter is urgent as over 300 families, including children are impacted by the imminent cutting of services.
11. The applicant's counsel, during argument, trimmed significantly the relief now sought. In short, various prayers were removed from the present table and the applicants undertake to keep paying monthly charges.
12. In my view, the applicants, who effectively need to provide services to many persons including children have, at least for present purposes, ringfenced sufficiently the relevant areas of dispute.
13. The respondents cast much doubt on the exact figures suggested by the applicants. In my view, the applicants have overcome the hurdle they face now. For the limited relief sought, the applicants have shown a prima facie right, even though open to some doubt.
14. Under section 28 of the Constitution, any matter involving children is to be decided bearing in mind that the interests of children are paramount.

15. On the question of costs, in my view, the Siwendu J order is possibly open to different interpretations and the greater dispute is very much up in the air. Accordingly, the question of costs should be reserved.

ORDER

1. The respondents are not to discontinue municipal services, or if they have discontinued the services they must immediately restore them subject to the applicants paying each month the current charges - that is for May 2023 and thereafter, being electricity and water as metered by Protea Metering or a different contractor appointed by the respondents, rates as per monthly accounts rendered, refuse at the rate of R441 per month plus ordinary notified increases and sewerage at the rate of R30 000 per month - pending agreement or the final determination of the disputes by litigation.
 2. The respondents may not terminate any service unless they give the applicants at least 10 calendar days written notice.
 3. Costs reserved.
 4. The balance of the relief sought in Part A is postponed sine die
-



GC Wright

Judge of the High Court

Gauteng Division, Johannesburg

HEARD : 25 May 2023

DELIVERED : 25 May 2023

APPEARANCES :

APPLICANT Adv N Nortje

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RESPONDENT for 1;2 and 4

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IN THE HIGH COURT OF SOUTH AFRICA
GAUTENG DIVISION, JOHANNESBURG

CASE NO: 047352/2023

On the 25 May 2023, Before Wright J

In the matter between:

IDOLA (PTY) LTD, TWIN CITY REALITY (PTY) LTD

And

THE CITY OF JOHANNESBURG METROPOLITAN
MUNICIPALITY

THE MUNICIPAL MANAGER OF THE CITY OF
JOHANNESBURG METROPOLITAN MUNICIPALITY

JOHANNESBURG WATER (SOC)

CITY POWER (SOC)

APPLICANT

1ST RESPONDENT

2ND RESPONDENT

3RD RESPONDENT

4TH RESPONDENT

COURT ORDER

Having read the documents filed and having heard counsel in this matter, the following order is made:

1. The respondents are not to discontinue municipal services, or if they have discontinued the services they must immediately restore them subject to the

applicants paying each month the current charges - that is for May 2023 and thereafter, being electricity and water as metered by Protea Metering or a different contractor appointed by the respondents, rates as per monthly accounts rendered, refuse at the rate of R441 per month plus ordinary notified increases and sewerage at the rate of R30 000 per month - pending agreement or the final determination of the disputes by litigation.

2. The respondents may not terminate any service unless they give the applicants at least 10 calendar days written notice.
3. Costs reserved.
4. The balance of the relief sought in Part A is postponed sine die

BY ORDER

REGISTRAR

APPLICANT

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RESPONDENT for 1;2 and 4

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