IN THE NORTH GAUTENG HIGH COURT, PRETORIA
(REPUBLIC OF SOUTH AFRICA)

(1) REPORTABLE: ~~YES~~ / NO
(2) OF INTEREST TO OTHER JUDGES: ~~YES~~/NO
(3) REVISED.

20/5/2011
DATE SIGNATURE

CASE NUMBER: 59003/2009

DATE: 20 MAY 2011

In The Matter Between

KASHAN RAMOKOKA MABANDO Applicant

And

THE LAW SOCIETY OF THE NORTHERN PROVINCE Respondent

(Incorporated as the Law Society of the Transvaal)

JUDGMENT

MAKGOBA J:

[1]. This is a stated case in terms of Rule 48 of the Uniform Rules of Court for a review of taxation made by the Taxing Master on the 17 January 2011

[2]. The Applicant raised an objection in respect of item 10, " perusal record of proceedings". The objection made against the whole of the amount of R2964-25 charged on item 10 of the Bill of Costs is that the bundle of documents attached to the transcribed record of the proceedings of the 8 June 2009 did not form part of the proceedings as they were never produced at the hearing and that the Applicant was

never provided with documents nor was any reference made during the proceedings to any of the documents forming part of the bundle.

[3]. In the main application the Applicant had brought a review in terms of Rule 53 against the proceedings that were held on the 8 June 2009 to have the name of the Applicant removed from the roll of legal practitioners. Item 10 is made of a bundle of the proceedings that were held on the 8 June 2009 and all documents that were presented on that date.

[4]. It is common cause that the review application was opposed by the Law Society (Respondent). In terms of Rule 70 all costs that are necessary and proper for attainment of justice are allowed. The fact that the review application was opposed meant that the Respondent would need to provide all necessary information in support of their opposition, which in my view would include the documents referred to at item 10 of the Bill of Costs.

[5]. The Taxing Master's submission is that item 10 of the Bill was correctly allowed. In this regard reference was made to case of **Chemical Formulators & Consultants (Pty Ltd v. Detsave Chemicals (Pty) Ltd and Others 1976 (1) SA 638 (W)** where the question of perusal of material documents was raised. It was held that for the attainment of justice, it was necessary and proper to peruse the documents. It was further held that although the documents were not annexed to the applicant's notice of motion and affidavits, the perusal of those documents was necessary.

[6]. The Taxing Master submits that in the present case, the documents were served as a separate bundle of the record of proceedings held by the Law Society and were not annexed to an affidavit but were necessary in support of the respondent's case. I agree.

[7]. In **Waring v. Mervis & Others 1970 (3) SA 594** the distinction between important and material documents was highlighted. The documents not merely of evidential value but on which the cause action or the defence is directly based are important documents. Material documents have evidential and probative value in furthering a party's case.

[8]. The Taxing Master's discretion in allowing item 10 because the documents were both important and material to the Respondent's case cannot be faulted. In the circumstances the Taxing Master's **allocatur** dated 17 January 2011 in respect of item 10 thereof is confirmed and the Applicant's objection is dismissed

E M MAKGOBA
JUDGE OF THE HIGH COURT