



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

CASE NO:2939/2017

(1) REPORTABLE: NO

(2) OF INTEREST TO OTHER JUDGES: NO

(3) REVISED: YES

Date: 19 February 2024

In the matter between:

**THE MUNICIPAL MANAGER OF
OF THE CITY OF JOHANNESBURG
METROPOLITAN MUNICIPALITY**

ROSINA MOHALE

MALEBO SELOWA

SIPHO SIBIYA

CITY OF JOHANNESBURG

METROPOILTAN MUNICIPALITY

CITY OF POWER JOHANNESBURG (SOC) LTD

JOHANNESBURG WATER (SOC) LTD

FIRST APPLICANT

SECOND APPLICANT

THIRD APPLICANT

FOURTH APPLICANT

FIFTH APPLICANT

SIXTH APPLICANT

SEVENTH APPLICANT

And

TWIN CITY REALTY (PTY) LTD

IDOLA (PTY) LTD

FIRST RESPONDENT

SECOND RESPONDENT

JUDGEMENT

ALLY AJ

[1] This is an application launched by the First and Second Respondents, hereinafter referred to as the Respondents, for a costs order in their favour following an order¹ granted by agreement on 18 April 2019.

[2] The costs in the abovementioned order were reserved, hence this application which is opposed by all the Applicants.

[3] It should be noted that the abovementioned order was granted after the Applicants launched a reconsideration application.

[4] Both sets of parties submit that costs should be granted in their favour because they were successful. However, it is clear from the Order of Mahalelo J itself that both parties were successful and the costs reserved were in fact the costs of the reconsideration application.

[5] It has become trite law that a decision on costs to be awarded in legal proceedings vest in the discretion of the Court which discretion must be exercised judicially taking into account the circumstances of the case.

[6] It is true, as submitted by both Counsel that costs usually follow the result unless a Court is convinced otherwise in the given circumstances.

¹ Caselines: Section E1-E2

[7] The Respondents submit that this Court should consider that the original application was launched because of the conduct of the Applicants and the Respondents were successful in the said application². However, it should be noted that costs of that application were awarded in favour of the present Respondents.

[8] In my view, a consideration of the costs of the reconsideration application cannot extend to a consideration of the initial application. This Court must accordingly consider what occurred in the reconsideration application.

[9] As stated above, both parties were successful during the reconsideration application and this factor is the overriding factor in coming to a decision as to who should be awarded costs in the said application.

[10] In the result, I am of the view that because of the success of both parties in the reconsideration application each party must pay their own costs of the said application and this opposed application.

[11] Accordingly, the following Order shall issue:

- a). Each party shall pay their own costs in respect of the costs reserved on 18 April 2019;
- b). Each party shall pay their own costs in this application.

² Caselines: B4-B7



ACTING JUDGE OF THE HIGH COURT
GAUTENG LOCAL DIVISION OF THE HIGH COURT, JOHANNESBURG
Electronically submitted therefore unsigned

Delivered: This judgement was prepared and authored by the Judge whose name is reflected and is handed down electronically by circulation to the Parties/their legal representatives by email and by uploading it to the electronic file of this matter on CaseLines. The date for hand-down is deemed to be 19 February 2024.

Date of virtual hearing: 1 February 2022

Date of judgment: 19 February 2024

Appearances:

Attorneys for the Applicants	: MADHLOPA & THENGA INC commercial@madhlopathenda.co.za
Counsel for Applicants	: Adv. L. Nyangiwe
Attorneys for the Respondents	: JAQUES CLASSEN ATTORNEYS jaques@propdevlaw.co.za
Counsel for the Respondents	: Adv. R. de Leeuw