REPUBLIC OF SOUTH AFRICA

IN THE HIGH COURT OF SOUTH AFRICA

GAUTENG DIVISION, PRETORIA

CASE NO: B1443/2023

In the matter between:

UNCHAINEDYOUTH NPC	1ST APPLICANT
DENNIS JACKIE CHAUKE	2ND APPLICANT
MAVIS SEIPATI MOELA	3RD APPLICANT

And

ANTOINETTE NKHESANI CHAUKE	RESPONDENT

ORDER

AFTER HAVING perused the papers filed, and considered the submissions made by the second applicant and counsel for the respondent, the following order is granted:

1. The matter is heard as one of urgency, and non-compliance with the Uniform Rules of Court with regard to time limits and form of service is condoned;

2. The respondent is to return the old and new lockable cabinets containing the patient's files, the white reception desk, the 2 bar heater, the two extension cords, two multiplugs, the bar fridge, the stationary, and the posters referred to in paragraphs 45.1, 45.3, 45.5. 45.6 and 45.7 of the founding affidavit, to the Chairperson of the first applicant's Board, or his nominee, who is authorised to accept it, before or on Thursday, 4 May 2023.

3. The remaining issues, including the factual dispute as to whether the respondent removed certain laptops and a wifi router, are separated and postponed *sine die*, to be dealt with in the ordinary motion court. The applicants may amplify their papers within 10 court days from the date of this order, and the respondent may amplify her papers within 10 days after receipt of the applicants' amplified papers, alternatively within 10 days from the last day on which the applicants could file amplified papers;

4. The respondent is to pay the costs of the application.

REASONS

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[1] The aspects of the relief sought that relate to the first applicant's functioning in terms of the Prevention of and Treatment for Substance Abuse Act, 70 of 2008, are urgent. The marital discord and acrimony between the second applicant and the respondent negatively influence their functioning as directors of the first applicant.

[2] In light of the factual disputes that exist, and the fact that the relief sought is final in nature, the well-known *Plascon Evans* –test find application. Thus, the court only orders the return of the articles the respondent acknowledged she took. The Board may authorise that a criminal charge of theft be instituted in order to determine the whereabouts of the property that the respondent does not take responsibility for.

[3] The second applicant may approach the Domestic Violence Court in the event that he feels threatened by the respondent's behaviour.

[4] Although the Chairperson of the first applicant's Board is not a party to the proceedings, the Board is ultimately the first applicant's custodian. The property of the first applicant that the respondent took should be returned to the Chairperson of the Board. The Board will deal with the property in accordance with its powers and responsibilities.

[5] The respondent is to pay the costs of this application as she acknowledged that the property is in her possession, and tenders it back to the applicants, but has to date failed to make the necessary arrangements for its return.

E van der Schyff
Judge of the High Court
28 April 2023