

**IN THE HIGH COURT OF SOUTH AFRICA
GAUTENG DIVISION, PRETORIA**

CASE NO. 55603/2018

(1) REPORTABLE: NO

(2) OF INTEREST TO OTHER JUDGES: NO

(3) REVISED.

DATE: 12/09/2023

SIGNATURE

In the matter between:

MOSES REEDS

1ST APPLICANT

ALTHEA MARILYN REEDS

2ND APPLICANT

And

LEONNIE MAY N.O.

1ST RESPONDENT

(EXECUTOR ESTATE NORMAN DENNIS MAURICE MAY)

LEONNE ANNEBELLE MAY

2ND RESPONDENT

TRACY HILL N.O.

3RD RESPONDENT

COINCISE REASONS FOR JUDGMENT

MOGOTSI AJ

- [1] This is an urgent application for an interim interdict. The applicant seeks to interdict the respondents from transferring the immovable property,1[...] D[...] Road, Wendywood, Sandton pending the outcome of the application for leave to appeal the order of Wanles AJ granted on 26 March 2022, in terms of the notice of application for leave to appeal dated 6 June 2023. The third respondent, a co-trustee in the insolvent estate of the applicant, opposes the application.
- [2] The central issue in *casu* is whether or not there is a pending application for leave to appeal.
- [3] The review application in which the applicant seeks to set aside the Wanless AJ order was launched on 14 March 2023. On 12 August 2020, the applicant requested the Honourable Court to advance the reasons for its decision. It is imperative to note that the request for reasons was made out of time. On 29 September 2021, the court requested the applicant's attorneys to obtain a transcript of the proceedings to enable it to provide reasons for its decision. It is common cause that, when the application for review was launched, the said grounds were still outstanding. The applicant now seeks to create the impression that Wanless J failed to provide the reasons by concealing the fact that they failed to submit the transcript as requested. In my view, the applicant failed to demonstrate that there is a valid pending application for leave to appeal.
- [4] The applicant endeavours to create an impression that he was unaware of the sequestration order. The interim sequestration was granted on 21 August 2019 and the return date was 26 March 2020. The applicant was directed to file a substantive application for late filing of their answering affidavit within 15 days of the order. In my view, this implies that the applicant was aware of the application for sequestration and their application for leave to appeal has no prospects of success.
- [5] The applicant sought to join Ahmed Moosa Gani Sulliman, a co-trustee in the insolvent estate, and further sought the court to simultaneously grant the

order they are seeking against all the parties inclusive of the latter. This court refused to grant the order because it would be inconsistent with the *audi alteram partem* rule.

[6] The applicant failed to properly serve the 5th respondent with the application in terms of the Uniform Rules of the Court.

[8] In the result, I made the following order:

8.1 The application is dismissed.

8.2 The applicant is ordered to pay the wasted costs on attorney-client scale.

P J M Mogotsi
Acting Judge of the High Court

Date of hearing :12 July 2023

Date of Reasons for judgment :12 September 2023

Appearances:

For plaintiff: Adv Douglas J Shaw (Instructed by Michael Krawitz & Co)

For defendant: Adv A P Ellis (Instructed by Friedland Hart Solomon & Nicolson)