

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

24/3/15

Case Number: 28606/12

DELETE WHICHEVER IS NOT APPLICABLE	
(1) REPORTABLE: YES ☒ NO ☒	
(2) OF INTEREST TO OTHER JUDGES: YES ☒ NO ☒	
(3) REVISED. ☒	
24/3/15 DATE	[Signature] SIGNATURE

In the matter between:

MINISTER OF POLICE

APPLICANT

AND

LAETITIA DYSELL

RESPONDENT

JUDGMENT

Fabricius J,

1

The Applicant herein, the Minister of Police brought an application in terms of which he sought an order that the action instituted by the Respondent (who was the Plaintiff in the main action), under case number 28606/2012 be removed to the High Court of South Africa, Western Cape Division, Cape Town, in terms of the provisions of *S. 27 (1) (b) (ii) of the Superior Courts Act 10 of 2013*.

2.

The Respondent, or should I rather say the Respondent's Attorney, managed to make a mountain out of a molehill in this application, but it actually turned out to be a molehill when one had regard to the following facts which were common cause:

2.1

Plaintiff (Respondent) is an *incola* of the Western Cape Province;

3

2.2

The Defendants (Applicants) Civil Litigation: Legal Section, which handles this claim, is located in the Western Cape;

2.3

The cause of action arose in the Western Cape;

2.4

The documents required for the action are all in the Western Cape;

2.5

The Respondent's Attorney, Mr Erwee, practices in Mussina;

2.6

The Gauteng High Court and the Western Cape High Court have concurrent jurisdiction in this matter;

2.7

Mr Erwee acts on a contingency basis for the Respondent and the provisions of the

Contingency Fees Act 66 of 1997 are therefore applicable;

2.8

Clause 8 of the contingency fee agreement deals with disbursements made by Mr Erwee in the following manner:

2.8.1 Disbursements and expenses will be paid by Mr Erwee and shall in the first place be recovered from the proceedings once the claim has been finalised;

2.8.2 The disbursements will thereafter be claimed from the opponents and upon receipt thereof, the client would be refunded.

2.9

Mr Erwee has instituted approximately 250 similar actions in this Court;

2.10

All the plaintiffs in these actions reside in the Western Cape;

2.11

All the causes of action in these cases arose in the Western Cape;

2.12

The Plaintiff (the Respondent herein) did not make a confirmatory affidavit and we therefor do not know what she regards as to be convenient to her in the litigation affecting her.

3.

I accept that in an application of this nature one should consider the convenience of all the parties as well as the convenience of the Court.

4.

It is clear from the Respondent's Answering Affidavit, or rather Mr Erwee's Answering Affidavit, that he is mainly concerned about his own financial interests.

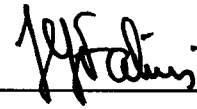
Very general allegations are however also made in this particular context and very little, if any, facts are given. He however states that there are no Attorneys in the Western Cape who would be prepared to act on a contingency fee basis. I found this an astounding allegation, and of course no particular facts are given in this

context. The question would also arise: how does an Attorney practicing in Mussina 1900km away from his clients in the Cape, manage to obtain 250 clients without some type of support system in Cape Town? We do not have any factual allegations in this context, but merely on a practical and logical basis one would assume that he has some type of support system in Cape Town. As far as other allegations about expenses are concerned, including those of experts, we do not know who those experts are, in which case they would be necessary, and why they would all have to be from Pretoria.

5.

Taking all of these considerations into account, I am of the view that the Applicant has made out a proper case.

The application is therefore granted in terms of the Draft Order annexed hereto as Annexure X.



JUDGE H.J. FABRICIUS

JUDGE OF THE HIGH COURT GAUTENG DIVISION PRETORIA

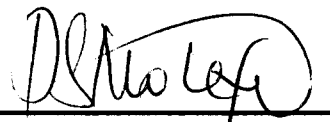
I Agree



JUDGE M. F. LEGODI

JUDGE OF THE HIGH COURT GAUTENG DIVISION PRETORIA

I Agree



JUDGE D. S. MOLEFE

JUDGE OF THE HIGH COURT GAUTENG DIVISION PRETORIA

24 March 2015

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

Case Number: 28606/2012

In the matter between:

MINISTER OF POLICE

Applicant

and

LAETITIA DYSELL

Respondent

DRAFT ORDER

**ON 23 MARCH 2015: CORAM – LEGODI J, FABRICIUS J ET
MOLEFE J**

Having heard counsel for the Applicant and the Respondent, the following order issues:

1. That the action instituted by the Respondent (who is the Plaintiff in the main action) under case number 28606/2012 be removed to the High Court of South Africa, Western Cape Division, Cape Town in terms of the provisions of section 27(1)(b)(ii) of the Superior Courts Act 10 of 2013.

24/3/15
[Signature]

2. The order in paragraph 1 *supra*, shall have a binding effect on all the actions instituted against the Minister of Police where Erwee Attorneys (or any attorneys acting on his behalf as correspondent) instituted action in this court where the causes of action (including but not limited to actions for unlawful arrest and detention, assault, unlawful search and seizure, malicious prosecution and claims for loss of support by dependants) arose within the jurisdictional area of the Western Cape Division, Cape Town and where the Plaintiff/s is/are resident in the same area.
3. That any and all interlocutory applications including but not limited to those brought in terms of section 3(4) of the Institution of Legal Proceedings against certain Organs of the State Act 40 of 2002 (the "Act") where such applications have been launched after action has been instituted or where the Applicant has raised a special plea predicated upon the aforesaid provisions of the Act, should also be removed to the Western Cape Division, Cape Town.
4. That the Respondent pays the Applicant's costs of this application, inclusive of the costs of two counsel.
5. That the Applicant pays the Respondent's costs occasioned by the application for striking out in terms of Rule 6(15) including the

24/3/15
[Signature]

application served on the Respondent on 19 March 2015, such costs to include the cost of junior counsel.

BY ORDER

REGISTRAR

24/3/15
[Signature]