



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

CASE NO: 64910/12

19/6/2015

DELETE WHICHEVER IS NOT APPLICABLE

(1) REPORTABLE: YES/NO.

(2) OF INTEREST TO OTHER JUDGES: YES/NO.

(3) REVISED.

19/06/2015

DATE

SIGNATURE

IN THE MATTER BETWEEN

THE CHAIRPERSONS ASSOCIATION

Applicant

and

THE MINISTER OF ARTS & CULTURE OF THE RSA

First Respondent

THE CHAIRPERSON OF THE SOUTH AFRICAN

Second Respondent

GEOGRAPHICAL NAMES COUNCIL

THE MAKHADO MUNICIPALITY

Third Respondent

JUDGMENT

LEGODI J

[1] The issue in this matter is about the costs of an interlocutory application launched on the 9 September 2014 in terms of which the applicant wanted the respondents to be ordered to file a complete record of the decisions sought to be reviewed in paragraphs 1 and 2 of the notice of motion in the main application.

[2] The applicant had brought an application in terms of which it wanted the decision of the first respondent published as Government Notice 851 in Government Gazette 34670 on 14 October 2011 to approve the recommendation by the South African Geographical Names Council to change the Geographical name of the town Louis Trichardt to Makhado, be reviewed and set aside. Secondly, it wanted the decision rejecting the applicant's objection to the change of the name of the town from Louis Trichardt to Makhado on May 2012 be reviewed and set aside.

[3] The record of the decision having been provided in terms of Rule 53, the applicant informed the respondents that the record was not complete. Subsequent to the query being raised, on the 16 April 2014 the respondents wrote a letter to the applicant's and recorded:

- "1. We refer to your letters dated 13 November 2013 and 21 March 2014.
2. We attach a copy of a letter from the Minister of Arts and Culture to A Naude dated 10 May 2012, re: "Publication of name change of town name: Louis Trichardt to Makhado as per Government Gazette number 34670 dated 14 October 2011"
3. Please note that all the documents relevant to the decision ought to be reviewed and set aside that are in our client's possession are included in the record that we filed on 4 September 2013, save for the above letter of 10 May 2012".

[4] Having not been satisfied with the response to provide complete record, the applicant launched the interlocutory application aforesaid. The respondents opposed the application and on the 29 October 2014, that is, a day before the hearing of the interlocutory application, filed the answering affidavits in both the main and interlocutory applications.

[5] In the main application, the respondents conceded to the review of its decision to change the name Louis Trichardt to Makhado. The concession was made as the respondents were not able to provide or produce documents showing consultative process which preceded the decision, including minutes of meetings held as part of consultative process thereof. An order to this effect with costs was made on the 30 October 2014, and therefore effectively disposed of the main application.

[6] The respondents however declined to tender costs for the interlocutory application and as a result the application was postponed. The applicant in the course filed its replying affidavit and dealt mainly with prayer 2 of its main application which reads:

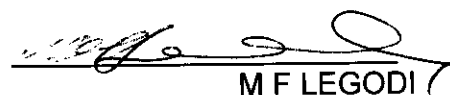
"2. That the First Respondent's rejection of the applicant's objections to the change of the name of the town from Louis Trichardt to Makhado on 10 May 2012 be reviewed and set aside".

[7] Prayer 2 in my view has fallen by the way side when an order was made on the 30 October 2014, reviewing and setting aside the decision to change the name Louis Trichardt to Makhado. It was therefore not necessary to pursue whatever contention the applicant might have had with regard to prayer 2 quoted above. Therefore, the filing of the replying affidavit after the 30 October 2014 was unnecessary. For this, the applicant should not be entitled to any costs occasioned by the filing of the replying affidavit.

[8] However, with regards to the launching of the interlocutory application, the respondents should have tendered costs when concession on the main application was made. Reliance on the letter of the 16 April 2014 quoted in paragraphs 3 of this judgment is unhelpful to the respondents. In the letter it is not stated that the documents required to constitute a complete record, did not exist, as it has now been conceded. What the letter of the 16 April 2014 suggests is that the information or documents required have already been provided. The issue was clarified for the first time in the answering affidavit filed on the 29 October 2014. The applicant was therefore entitled to proceed with its interlocutory application on costs when the respondents failed to make a tender for costs. The respondents should therefore be held liable for the costs except those occasioned by the filing of the replying affidavit.

[9] Consequently an order is hereby made as follows:

9.1 The first respondent is hereby ordered to pay the costs of the interlocutory application and such costs to exclude costs occasioned by the filing of the replying affidavit.


M F LEGODI

JUDGE OF THE HIGH COURT

HEARD ON: 08 JUNE 2015

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