

IN THE HIGH COURT OF SOUTH AFRICA
(ORANGE FREE STATE PROVINCIAL DIVISION)

Case Nr: 3603/2004

In the matter between:

THE MOTHEO DISTRICT MUNICIPALITY

Applicant

and

NS MOHAPI

First Respondent

(in her capacity as Executive Mayor of
the Motheo District Municipality)

TD MADOLO

Second Respondent

CORAM: VAN DER MERWE J

JUDGMENT: VAN DER MERWE J

HEARD ON: 28 OCTOBER 2004

DELIVERED ON: 11 NOVEMBER 2004

[1] First respondent was the executive mayor of applicant and second respondent was the speaker of applicant. On 8 October 2004 the counsel of applicant resolved to remove respondents as executive mayor and speaker respectively.

[2] On 22 October 2004 a *rule nisi* was issued on an urgent

basis calling upon the respondents to show cause on Thursday 28 October 2004 why orders should not be made that the respondents vacate their respective offices on the premises of the applicant and that respondents deliver to applicant vehicles, keys thereof, credit cards, laptop computers and certain documentation, issued to them by applicant in their aforesaid respective capacities before 8 October 2004. The provisions of the *rule* nisi in relation to the delivery of the motor vehicles, keys thereof and credit cards, operated as *interim* interdict with immediate effect, pending finalization of this application.

- [3] On the return date an agreement in writing between the parties to this application was handed up. Paragraph 2 of that agreement provides as follows:

“In the event of the Honourable Court dismissing prayer 2.2 (as amended) of the Notice of Motion in case number 3446/04, the respondents in case number 3603/04 will pay the applicant’s costs of the application, jointly and severally, the one paying the other to be absolved, on the party

and party scale, which costs will include the costs of two counsel up and until the interim order was granted on 22 October 2004 and the interim order will be made final.”

[4] An order dismissing prayer 2.2 (as amended) of the notice of motion in application 3446/2004 has been made.

[5] In the result, the following orders are made:

- (1) Paragraphs 2.1, 2.2, 2.3, 2.4, 2.5 and 2.6 of the rule *nisi* dated 22 October 2004 are confirmed.
- (2) Respondents are ordered to jointly and severally, the one paying the other to be absolved, pay the costs of the application on the party and party scale, including the cost of employment of two counsel up to and until the grant of the interim order on 22 October 2004.

C.H.G VAN DER MERWE, J

CASE NO: 3603/2004:

On behalf of Applicant: Advocate A.J.R. van Rhyn S.C.
Instructed by
Naudes
BLOEMFONTEIN

On behalf of Respondents: Advocate W.J. Edeling
Instructed by
Bokwa Attorneys

BLOEMFONTEIN

/ECoetzee