



**IN THE HIGH COURT OF SOUTH AFRICA
GAUTENG LOCAL DIVISION, JOHANNESBURG**

CASE NO: 2022-003038

- (1) REPORTABLE: NO
(2) OF INTEREST TO OTHER JUDGES: NO
(3) REVISED: NO

24 July 2024
DATE

SIGNATURE

In the matter between:

JUVANSU TRADING CC

Plaintiff / Applicant / Appellant

and

**PUMA ENERGY PROCUREMENT
SOUTH AFRICA (PTY) LTD**

First Defendant / Respondent

**PUMA
ENERGY SOUTH AFRICA (PTY)
LTD**

Second Defendant / Respondent

HENDRIK LOUW

Third Defendant / Respondent

Heard: 17 April 2024

Delivered: This Judgment was handed down electronically by circulation to the parties' legal representatives by email and by uploading to Caselines. The date and time for hand down is deemed to be 10:00 am on 24 July 2024.

JUDGEMENT

GREEN, AJ

[1] On 9 July 2024 I handed down a judgement in this matter. That judgement deals with the Applicant's claim for the setting aside of an arbitration award published by the third respondent.

[2] On 18 July 2024, the First and Second Respondents' attorneys directed an email to me in which they pointed out that the Respondents' counter application was not dealt with in the judgement which I had handed down. In response to that email, I asked the attorneys for the Applicant and the First and Second Respondents to confirm whether they agreed that the First and Second Respondents' counterapplication had served before me. Both parties have responded that they agree that the Respondents' counterapplication served before me. This judgement accordingly deals with the counter application and must be read together with the judgment I handed down on 9 July 2024.

[3] In the counterapplication the First and Second Respondents seek an order that the award published by the Arbitrator on 1 April 2022 be made an order of court. The First and Second Respondents also ask for costs of the counter application. The affidavit to support the counter application is contained within the First and Second Respondents' answering affidavit and is answered in the replying affidavit.

[4] In opposing the counter application, the heads of argument filed on behalf of the Applicant articulated the grounds of opposition as:

[4.1] where the Award falls to be set aside the counter application must fail;¹ and

[4.2] the First and Second Respondents did not prove a valid arbitration agreement, and the Arbitrator did not have jurisdiction to make the determinations that he did.²

[5] In the judgement that I handed down on 9 July 2024:

[5.1] I dismissed the application seeking to set aside the Arbitrator's award. That finding is dispositive of the first ground of opposition raised by the Applicant to the counter application.

[5.2] I found that the Arbitrator was vested with the necessary jurisdiction to decide whether the suspensive conditions had been fulfilled, and I found that in granting the Award he did not go beyond the bounds of his jurisdiction, or the issues that were before him. That finding is dispositive of the second ground on which the counter application is opposed.

[6] Given that I have found that the Arbitrator's award ought not to be set aside, and that the grounds of opposition to the counterapplication articulated by the Applicant cannot be upheld, it follows that the relief sought in the counter application should be granted.

[7] The First and Second Respondents have asked for costs of the counter application. If I had granted the order contained within this judgement when I handed down my judgement on 9 July 2024 I would have dismissed the main application, granted the counter application and granted a single costs order. The circumstances under which this judgment is handed down have resulted in me having to grant a separate costs order. Notwithstanding that this is a separate costs order, when this

¹ Heads of Argument, para. 94.

² Heads of Argument, para. 95.

costs order is taxed no part of the costs associated with the main application are to be included in this costs order, and it is limited only to the costs associated with the counter application having due regard to avoid any duplication of costs in respect of the main application. Counsels' costs will be taxed on scale C, for the same reasons reflected in my judgement of 9 July 2024.

[8] For the reasons set out above, I make the following order:

1. *"The arbitration award published by Advocate H Louw on 1 April 2022 is made an order of court.*

2. *The costs of the counterapplication are to be paid by the Applicant with counsels' costs to be taxed on scale C."*



I GREEN

Acting Judge of the High Court
Gauteng Division, Johannesburg

Appearances

For the Applicant:

H M Viljoen instructed by Hay and
Scott

For the First and Second Respondent:

AJ Daniels SC and CT Vetter
instructed Webber Wentzel

Date of hearing: 17 April 2024

Date of judgment: 23 July 2024