

REPUBLIC OF SOUTH AFRICA



IN THE HIGH COURT OF SOUTH AFRICA
GAUTENG DIVISION, JOHANNESBURG

CASE NO: 10905/2022

(1)	REPORTABLE: YES / <u>NO</u>
(2)	OF INTEREST TO OTHER JUDGES: YES / <u>NO</u>
(3)	REVISED.
<u>13/8/2020</u> DATE	
 SIGNATURE	

In the matter between:

LORDOS (PTY) LTD

Applicant

and

CITY OF JOHANNESBURG

1st Respondent

**EXECUTIVE MAYOR, CITY OF JOHANNESBURG
MPHO PHALATSE**

2nd Respondent

**ACTING CITY MANAGER, CITY OF JOHANNESBURG
BRYNE MADUKA**

3rd Respondent

JUDGMENT

MAKUME J:

- [1] This is an application to find the Respondents guilty of contempt of a court order which was granted by Senyatsi J on the 12 October 2022 in

which order the first Respondent was ordered to comply with certain directives concerning the Applicant's Municipal levies account.

[2] That order was duly served on the first Respondent. On receipt of the application for contempt which now for the first time cited the second and third Respondents the first Respondent filed an answering affidavit deposed to by Mr Tuwani Ngwana the legal advisor in the employment of the City.

[3] In the answering affidavit the first Respondent raised the following defences:

3.1 Firstly that the Applicant had failed to comply with the provisions of Rule 30A of the Uniform Rules in that no notice of compliance was served. In the result the contempt application was issued prematurely and thus defective

3.2 Secondly that the notice of that application afforded the Respondent a period of 5 days instead of 10 days to file their notice of intention to oppose.

3.3 Thirdly that when the original application was issued the second and third Respondents were not joined in the result the Applicant failed to comply with the provisions of Rule 10 of the Uniform Rules of Court.

- 3.4 Fourthly that the Court order granted by Senyatsi J was not properly served on the Respondent but was served on the first Respondent's Attorneys via email without the court's authorisation.
- 3.5 Lastly the first Respondent maintains that it has complied with the court order and that the Applicant has failed to make out a case for contempt.
- [4] The Applicant filed its Replying affidavit on the 31st May 2023 and indicated that it now seeks no relief against the second and third Respondents but reserved the right to later proceed against both Respondents in later proceedings. The Applicant did not indicate what later proceedings it anticipated neither did it tender wasted costs for their withdrawal.
- [5] In the Replying affidavit the Applicant takes issues with all the defences raised by the Respondent and denies that the Respondent has complied with all the orders granted by Senyatsi J.
- [6] On the 1st June 2023 the Applicant filed heads of argument, Applicant chronology as well as a list of authorities.
- [7] The first Respondent filed heads during March 2024.

- [8] On the 31st July 2024 the Respondent's Counsel, Adv Sithole appeared there was no appearance for the Applicant at 10h00. I stood the matter down to enable the Respondents' Counsel to ascertain from Applicant Counsel if they were coming to court.
- [9] When the court reconvened at 10h24 I was informed that Counsel for the Applicant has no knowledge that the matter was on the roll. Respondents Counsel also inform the Court that the attorney told their counsel that they did not place the matter on the roll.
- [10] Respondent's Counsel asked that the hearing proceed as it was clear that no one is coming to Court. I granted the request and heard the Respondent on the merits of the application.
- [11] It was only during address by Counsel for the Respondent that this Court became aware of a notice of removal dated the 31 July 2024. It was uploaded at 10h23 by one Sonica Reichert from the Applicant's office. In the email the writer said the following:

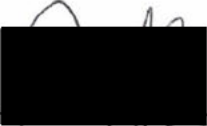
"It was brought to our attention that the matter was enrolled for even date. We did not serve a notice of set down and the matter should not have been enrolled. Attached hereto is notice

of removal from the roll which is also copied to the Respondent's attorneys kindly acknowledge receipt."

[12] When this email came to my attention it was already late and Counsel had already finalised his submissions to the Court. Having heard Counsel I was persuaded that the Applicant had not made out a case for contempt besides upholding the point in *limine* raised.

[13] In the result I made the order which his uploaded on Caselines marked A.

DATED at JOHANNESBURG this the 13th day of August 2024.


M A MAKUME
JUDGE OF THE HIGH COURT
GAUTENG LOCAL DIVISION, JOHANNESBURG

APPEARANCES

DATE OF HEARING	:	31 July 2024
DATE OF JUDGMENT	:	13 August 2024
FOR APPLICANT	:	No Appearance
FOR 1 ST RESPONDENT	:	ADV E Sithole
INSTRUCTED BY	:	Ramatshila-Mugeri Inc

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

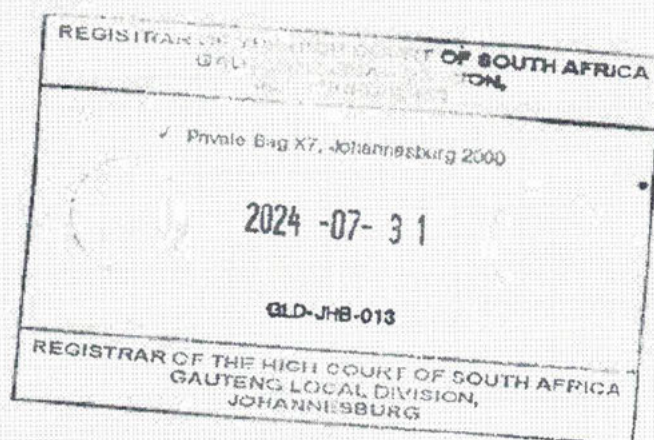
CASE NUMBER: 2022/10905

**BEFORE THE HONOURABLE JUDGE MAKUME J
ON 31 JULY 2024**

In the matter between:

LORDOS (PTY) LTD

and



Applicant

CITY OF JOHANNESBURG

First Respondent

EXECUTIVE MAYOR, CITY OF

JOHANNESBURG: MPHO PHALATSE

Second Respondent

ACTING CITY MANAGER: CITY OF

JOHANNESBURG: BRYANE MADUKA

Third Respondent

The Order is made an order of Court by the Judge whose name reflects herein, duly stamped by the Registrar of the Court and submitted electronically to the parties and/or their legal representatives by e-mail. This order is further uploaded on the electronic file of this matter on Caselines by the Judge or his secretary. The date of this order is deemed to be 31 July 2024.

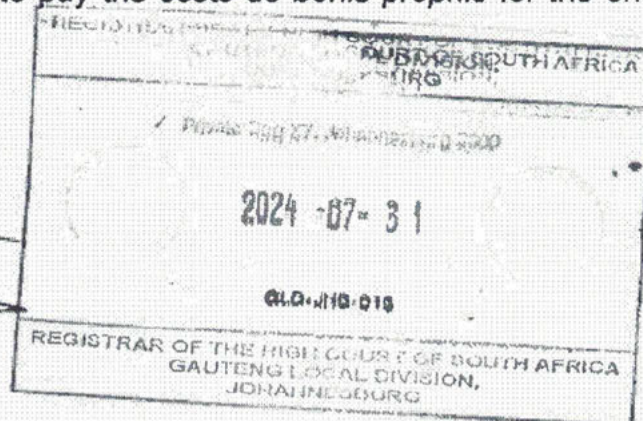
COURT ORDER

HAVING read the documents filed of record, heard counsel and having considered the matter, an order is granted in the following terms: -

1. The Applicant's contempt of court application is dismissed.
2. The Applicant's attorney, Konstantinos George Tserkezis is ordered to deliver an affidavit within 14 days of granting of this Court Order and give reasons why punitive costs order *de bonis propriis* should not be awarded against him personally.
3. *31/7/24* In the event where the Konstantinos George Tserkezis fails to deliver the affidavit as directed in terms of paragraph 2 of this order, then, Konstantinos George Tserkezis is ordered to pay the costs *de bonis propriis* for the entire contempt of court application.

BY THE COURT

REGISTRAR



For the Applicant:

No appearance

For the Respondents:

Emmanuel Sithole

nathi@sitholes.co.za

076 162 9605

Instructed by:

Mr Phathutsedzo Mukwevo

Ramatshila – Muger Inc

phathutshedzo@rmattorneys.co.za

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