

REPUBLIC OF SOUTH AFRICA



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

Case No. 2019-13741

(1)	REPORTABLE: No
(2)	OF INTEREST TO OTHER JUDGES: No
(3)	REVISED: No
20/08/2024	
DATE	SIGNATURE

In the matter between:

DU PREEZ, CRAIG ARTHUR

Applicant

and

AB

First Respondent

CD

Second Respondent

ULRICH ROUX & ASSOCIATES

Third Respondent

SHERIFF LETABA, TZANEEN

Fourth Respondent

In re:

AB

First Applicant

CD

Second Applicant

and

DU PREEZ, CRAIGH ARTHUR

First Respondent

LIFE GECKO (PTY) LTD

Second Respondent

WOODROCK PUBLISHING (PTY) LTD

Third Respondent

SKOOBS THEATRE OF BOOKS

Fourth Respondent

This judgment was handed down electronically by circulation to the parties' representatives via e-mail, by being uploaded to Court Online and by release to SAFLII. The date and time for hand- down is deemed to be 10h00 on August 2024.

WRITTEN REASONS

BEYERS, AJ:

[1] On 24 July 2024 I made the following order:

- "1. The application is struck from the roll due to non-compliance;*
- 2. The wasted costs are to be paid by the Applicant on attorney and client scale."*

[2] These are the written reasons for this order.

[3] This matter concerns an application, brought on an urgent basis, wherein the Applicant sought an order in the following terms:

- "1. dispensing with the forms and service provided in the Uniform Rules of Court and directing that the matter be heard on an Urgent basis in terms of Rule 6(12).*
- 2. the warrant of execution dated 18 March 2024 against the movable property of the Applicant be stayed in terms of Rule 45A pending the finalisation and outcome of the*

application for rescission of the Court Order pursued by the Applicant against the First and Second Respondents.

3. *Further and, or alternative relief.*

4. *The Respondents to pay the cost of this application."*

[4] The notice of motion in this matter appears to have been issued on 10 July 2024 and the Applicant enrolled the application for the hearing thereof on 23 July 2024.¹

[5] This application was brought to stay a warrant of execution dated 18 March 2024 and an execution sale scheduled for 25 July 2024.

[6] The Consolidated Practice Directives of this Court require an applicant to deliver, inter alia, a compliant practice note and, where a matter becomes opposed, brief heads of argument as soon as possible.

[7] In the case of an urgent application intended to be brought on the Tuesday at 10h00, the applicant must ensure that the relevant papers are filed with the Registrar by the preceding Thursday at 12h00.

[8] Despite having had ample opportunity to do so, the Applicant neither filed a practice note or heads of argument, either by the preceding Thursday, or by the time this application was heard.

[9] No satisfactory explanation was provided by the Applicant at the hearing of this matter on 24 July 2024 to explain the non-compliance.

¹ Caselines pp 016-1 to 016-4.

[10] In addition, the First and Second Respondents had delivered a notice on 17 July 2024² calling upon those representing the Applicant to furnish a current power of attorney authorising such representative to represent the Applicant in these proceedings.

[11] By the time this application was heard no formal response to such request had been provided by the Applicant's attorney. It is noted that, as at the date of these reasons, a purported power of attorney had been uploaded to Caselines.³ However, it is dated 13 June 2019 and does self-evidently not refer to the instant application.

[12] The Applicant's non-compliance with the practice directives resulted in the removal of the matter from the roll.

[13] The absence of any reasonable explanation for such failure justifies a punitive costs order as it related to the wasted costs associated with the removal of the matter from the roll.



J BEYERS

**ACTING JUDGE OF THE HIGH COURT
GAUTENG DIVISION, JOHANNESBURG**

² Caselines, p 018-2.

³ Caselines, p 018-6.

Date of Hearing: 24 July 2024

Date of Judgment: 20 August 2024

APPEARANCES:

For the Applicant:

Instructed by: Mike Potgieter Attorneys

For the First to Third Respondents: Adv M van der Westhuizen

Instructed by: Ulrich Roux & Associates