



THE LABOUR COURT OF SOUTH AFRICA, CAPE TOWN

JUDGMENT

NOT REPORTABLE

Case no: C519/16

In the matter between:

SHERIFF FOR THE HIGH COURT

FOR THE DISTRICT OF WYNBERG NORTH

Applicant

and

RPL ASSESSMENT CENTRE (PTY) LTD

Execution Debtor

ANNETJIE DEBORA OOSTHUIZEN

Execution Creditor/ First Claimant

PIETER BAREND SWART

Second Claimant

Heard: 25/11/2016

Delivered: 3 February 2017

JUDGMENT

RABKIN-NAICKER J

- [1] This interpleader was first set down on the 14 October 2016 but was postponed as the Second Claimant informed the Applicant he was suffering from ill-health. It was

then set down to be heard on the 25 November 2016. On the 16 November, a letter was received from the First Claimant's dental surgeon stating that he would not be able to travel for the rest of the year. No application for postponement was filed.

- [2] The Second Claimant was in court having driven to Cape Town from Knysna for the hearing. She filed an affidavit with leave of the court on that day with the pro-bono assistance of Counsel.
- [3] The matter comes before me in the wake of an interpleader summons in which the Applicant stated that movable property had been attached by virtue of a Warrant of Execution – Case no: WECT10689/15 issued by the labour Court. The items attached in terms of the warrant were in respect of a settlement agreement that was made an arbitration award in terms of section 142A(1) of the LRA. The settlement agreement was to the effect that the Respondent pay the first claimant amount of R11 7000 by no later than 30 September 2015.
- [4] I note in the affidavit filed of record by the First Claimant that she alleges that after the settlement agreement was signed by the parties at the CCMA, the Second Claimant shouted down the passage to her that she would not get a cent from him. Be that as it may, this is a matter in which the Second Claimant has failed to appear at court on two occasions and has not bothered to send a legal representative to represent him.
- [5] It is trite that the Labour Court deals with interpleader applications in terms of Rule 11 of this court, i.e. it does so with reliance on the provisions of Rule 58 of the Uniform Rules of Court. Rule 58(5) provides that where a party such as Second Claimant fails to appear in court he may be barred from making any claim against the applicant on the subject matter of the dispute. I therefore make the following order:

Order

1. Pieter Barend Swardt, the Second Claimant is barred as against the Applicant from making any claim on the subject matter of the interpleader proceedings.

H. Rabkin-Naicker

Judge of the Labour Court

Appearances:

First Claimant in person