

**IN THE HIGH COURT OF SOUTH AFRICA
(GAUTENG DIVISION, PRETORIA)**

Case No. **025033/2025**

1. REPORTABLE: NO
2. OF INTEREST TO OTHER JUDGES: NO
3. REVISED: NO

DATE 13 March 2025

SIGNATURE

In the ex-parte application; -

EX PARTE JACOB SIBIYA

First Applicant

And

OLD MUTUAL LIFE ASSURANCE (SA) LTD

First Respondent

SACCAWU NATIONAL PROVIDENT FUND

Second Respondent

SIBONGILE SIBIYA (born KGOSANA)

Third respondent

ID: 6[...]

Summary: -Applicant seek condonation, non-compliance with the normal Rules of Court with regard to service, form and time -periods as contemplated in Rule 6(12). Uniform Rule 6(12) -Matter is urgent if applicant will not be able to obtain “substantial redress at a hearing in due course” without at least some urgent relief- Applicants should set forth explicitly the reasons why the matter should be treated urgent. -Application is struck-off for lack of urgency.

JUDGMENT- *EX TEMPORE*

YENDE AJ

[1] The Court continues to give its *ex-tempore* judgment in the matter of a civil case number 025033/2025.

[2] This is an urgent application in terms of the Uniform Rule 6 subsection (12).

[3] This rule states pertinently that the applicant should set forth explicitly the reasons why the matter should be treated urgent. It is further trite that in doing so, the applicant should also give reasons as to why he claims that he cannot be afforded “substantial redress at a hearing in due course”.

[4] This particular application deals with non-compliance with the court rules. As I indicated earlier on that, the applicant should set forth explicitly the reasons why the matter is urgent. Self -created urgency does not entitle the applicant to urgent relief. As the consequent, the application is then struck off from the roll for lack of urgency, because the sanctity of urgent court has to be preserved for matters that are deserving. Lest the urgent court would be flooded with matters that are undeservingly, self-created, therefore subjective -orientated urgency.

[5] This Court has consistently refused to hear urgent applications in cases where urgency relied upon is subjective urgency, clearly self-created. Consistency is important in this context, as it informs the public and the legal practitioners that the rules of court and practice directives can only be ignored at a litigant’s peril. Legal certainty is one of the cornerstones of a legal system based on the rule of law.

[6] The test for urgency was eloquently formulated in *East Rock Trading (PTY) Ltd and Another v Eagle Valley Granite and Another's*¹ where Justice Notshe AJ held that "There import thereof is that the procedure set out in Rule 6(12) is not for taking. An applicant has to set forth explicitly the circumstances which he avers render the matter urgent. More importantly, the applicant must state the reasons why he claims that he cannot be afforded substantial redress at a hearing in due course". [My emphasis], the applicant has failed to satisfy the Court that he will "not be afforded substantial redress at a hearing in due course".

[6.1] In other words, urgency must be considered together with the issue of whether there will be substantial redress at a later hearing if the matter is not heard on an urgent basis.

[6.2] In summary, the requirements for an urgent application are:

1. The applicant had to set out explicitly the circumstances which render the matter urgent with full and proper particularity;
2. Reasons must be stated why he or she believes that he will not get substantial redress at the hearing in due course;
3. When final relief is sought, the Court must even be circumspect to determine whether urgency has been established;
4. The urgency must not be self-created;
5. It should never be a subjective perceived urgency.

[7] In particular case, the applicant, it is common cause that he divorced under case number 10787/2009. There are two divorce decree one of 2020 and an allegedly another of one of 2013.

¹ (11/33767) [2011] ZAGPJHC 196 at par 6.

[8] The applicant knew about these two different decrees of divorce that relate to him, one of which prejudices his rights financially so, but he did nothing.

[9] Since 2013 until 19 February 2025, when he was informed that money will be dispensed to his divorced wife, that's when then he thought of taking the matter up and burdening the urgent court, which is already overburdened by matters, some of which are not deserving of urgency.

[10] I am satisfied that the applicant in this matter has failed to convince the court that he has overcome the threshold prescribed in Rule 6(12) and I am of the firm view that the application ought to be struck off from the roll for lack of urgency.

[11] This application therefore falls to be struck from the roll and I hereby make the following order.

Order

[12] The applicants' urgent application is struck off from the roll for lack of urgency and in the circumstances of this application, I make no order as to costs.

J YENDE
ACTING JUDGE OF THE HIGH COURT
GAUTENG DIVISION, PRETORIA

*This judgment was prepared by **YENDE AJ**. It is handed down electronically by circulation to the parties/their legal representatives by e-mail and uploaded on Caselines electronic platform and by publication of the judgment to the South African Legal Information Institute. The date for hand-down is deemed **12 March 2025**.*

Appearances:

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Ref: RM305/09ZK

Heard: 24 February 2025

Delivered: 24 February 2025