



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

CASE NO: 117036/2024

DELETE WHICHEVER IS NOT APPLICABLE

- (1) REPORTABLE: **NO**
- (2) OF INTEREST TO OTHER JUDGES: **NO**
- (3) REVISED: **NO**
- (4) Date: 28 March 2025

Signature: _

In the matter between:

PTPC (PTY) LIMITED

Applicant

And

CITY OF TSHWANE METROPOLITAN MUNICIPALITY

First Respondent

CITY MANAGER OF CITY OF TSHWANE MUNICIPALITY

Second Respondent

JUDGMENT

A. INTRODUCTION

- [1] The applicant is before the urgent court seeking an order executing a spoliation order it had obtained in this court earlier in terms of section 18 (1) and (3) of the Superior Courts Act 10 of 2013¹ pending an application for leave to appeal lodged by the respondents.
- [2] The applicant is a participant in the outdoor advertising board industry. It has been in litigation against the respondents who are a municipality charged with regulating among other activities, the billboards within its area of jurisdiction. One such court application resulted in the applicant being granted a spoliation order by this court² against the respondents.
- [3] The applicant therefore seek an order preserving the status quo until the outcome of the application for leave to appeal and possibly, the appeal itself.
- [4] Mr. Viljoen submitted on behalf of the applicant that it was galvanized into launching this instant application by correspondence it received from the attorneys acting on behalf of the respondents as quoted below.
- [5] The relevant correspondence is a letter from the applicant's attorneys dated 13 February 2025 ("RR 7") seeking assurances that the respondents would not remove signage belonging to the applicant. The respondents' attorneys responded in reaction to the threatened legal action by the applicants' attorneys,

¹ Section 18(1) read with (3) provides that the court may on application, under exceptional circumstances order the operation and execution of a decision which is subject of an application for leave to appeal or of an appeal on certain conditions.

² As per draft order dated 14 November 2024 and the written judgment dated 03 February 2025 by Her Ladyship Justice Basson J.

by stating in paragraph 5 of its letter of reply dated 13 February 2025 (“RR 8”) that:

“5. We look forward to receiving your client’s application timeously.”

[6] The respondents oppose the application based on both lack of urgency and on its merits.

[7] Mr. Mbeki on behalf of the respondents, contends that this application is not urgent. He stated that:

7.1 The order by Basson J was granted on 14 November 2024 and only lost its efficacy when the respondents filed their application for leave to appeal on 25 November 2024.

7.2 The applicant herein comes 3 months down the line with no explanation whatsoever and seek execution of the order. When the applicant sought and obtained the order before his Lordship

Holland-Mutter J on 28 November 2024, they should at that time, have sought this relief.

7.3 The applicant rushed to court in circumstances where the respondents have merely issued a notice only and have not removed any signage.

7.4 The respondents react to community complaints.

7.5 The applicant does not, at any rate, have permission to advertise.

7.6 The applicant will have a remedy in due course because their section 18 application is pending and will be heard together with the application for leave to appeal as their papers allege.

[8] In the totality of facts in this application, I am inclined to agree with the respondents' submissions. The applicant has obtained in the previous week an undertaking by agreement between the parties, which was made an order by Her Ladyship Mnqibisa-Thusi J relating to the same subject-matter as Basson J's order.

[9] The fact of the applicant having been impelled to launch an urgent application on the basis of being "dared to file timeously" by the respondent is devoid of rationality.

[10] Accordingly, I make the following order:

(i) The application is struck from the roll for lack of urgency.

- (ii) The applicant is ordered to pay the respondents' costs including the costs of 17 February 2025 at scale B.³



J.S. NYATHI
Judge of the High Court
Gauteng Division, Pretoria

Date of hearing: 20/02/2025

Date of Judgment: 28 March 2025

On behalf of the Applicant: Adv. J.C. Viljoen

Instructed by: Jaques Classen Inc.

On behalf of the Defendants: Adv. S.D. Mbeki

Instructed by: Majang Inc.

Delivery: This judgment was handed down electronically by circulation to the parties' legal representatives by email and uploaded on the CaseLines electronic platform. The date for hand-down is deemed to be 28 March 2025.

³ Rule 69 of the Uniform Rules of Court.