

REPUBLIC OF SOUTH AFRICA



IN THE HIGH COURT OF SOUTH AFRICA
GAUTENG DIVISION, JOHANNESBURG

Case Number: 2024/101186

(1)	REPORTABLE: NO
(2)	OF INTEREST TO OTHER JUDGES: NO
(3)	REVISED: NO
6/3/2025	
DATE	SIGNATURE

In the matter between:

LIZO DAVID BUSHULA

Applicant

And

**MERCEDES – BENZ FINANCIAL SERVICES
SOUTH AFRICA (PTY) LTD**

Respondent

JUDGMENT

MAHOMED J

[1] This matter was on my urgent roll when I struck it for lack of urgency. The Applicant was unrepresented, the application was opposed. Advocate Welgemoed for the Respondent informed me that the matter was on the urgent

roll of 25 January 2025, on the same papers and was struck for lack of urgency, on that occasion as well.

- [2] At the hearing of this matter, I explained two main issues raised by the Applicant, that of urgency and an order for attorney client costs.
- [3] The Respondent submitted that the matter was urgent in that he was self-employed, he relied on uber black to transport people and that it was urgent that his vehicle be returned to him. He stated that he needed the vehicle to transport his children to school and to do his business. The applicant argued that the respondent's failed to serve their warrant of execution, on him, he had moved, and he disputed the report by the Sheriff, on service.
- [4] The matter was not urgent and if Applicant is dissatisfied with the warrant of execution which was authorised to attach the vehicle, he had a remedy which he could pursue in the normal course. The facts he presented to me did not warrant an order on an urgent basis; he was not entitled "to jump the queue" to seek his relief.
- [5] In *Iteco (Pty) Ltd v Hartsenberg* the court referred to the judgment of Notshe AJ in *East Rock Trading 7 (Pty) Ltd and Another v Eagle Valley Granite (Pty) Ltd and Others*:

"The import thereof is that the procedure set out in rule 6(12) is not there for taking. An applicant must 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.... The rules allow the court to come to the assistance of a litigant because if the latter were to wait for the normal course laid down by the rules it will not obtain substantial redress."¹

In an urgent matter the applicant must demonstrate that he will not obtain substantial redress at a hearing in due course. As I had explained, an indulgence is granted to an Applicant for relief, in terms of R6(12) of the Uniform Rules of

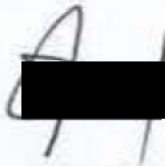
¹ *East Rock Trading 7 (Pty) Ltd and Another v Eagle Valley Granite (Pty) Ltd and Others* [2011] ZAGPJHC 196 at par 6.

Court, only when a matter is urgent, when that Applicant is allowed to bypass the normal court waiting time on the roll and to obtain urgent relief.

- [6] Regarding costs I informed the applicant that the Respondent was substantially successful the usual approach is to award costs to the successful party, and the costs on an attorney-client scale was as per the agreed instalment sale agreement he concluded with the Respondent. Respondent's counsel informed the court that on the last occasion his client did not seek costs, but that this is an abuse of the rules of court, the Applicant knew of this from the last occasion and continued to incur further legal costs.
- [7] I agreed with Mr Welgemoed that costs on an attorney-client scale are appropriate, it is provided for in the agreement, moreover, given the fact that the Applicant was before court previously on the very same issue and his application was struck then for lack of urgency.

*"Urgency is a matter of degree some applicants who abuse the court process should be penalised and the matters should simply be struck off the roll with costs for lack of urgency."*²

- [8] Accordingly, I granted the order as per draft order marked "X" dated 25/02/2025 and struck the matter from the roll.



MAHOMED J
JUDGE OF THE HIGH COURT
JOHANNESBURG

Date of hearing: 25 February 2025

Date of Judgment: 06 March 2025

² *Iteco (Pty) Ltd v Hartsenberg* [2024] ZAGPPHC 899 at par 23.

Appearances

For the Applicant: Mr. D Bushula appearing in person

For the Respondent: Adv CJ Welgemoed instructed by Strauss Daly Attorneys