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REPUBLIC OF SOUTH AFRICA



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

Case Number: 36073/2022

- | | |
|-----|---------------------------------|
| (1) | REPORTABLE: NO |
| (2) | OF INTEREST TO OTHER JUDGES: NO |
| (3) | REVISED: NO |

11 May 2025

DATE

SIGNATURE

In the matter between:

CITY OF TSHWANE METROPOLITAN MUNICIPALITY

Applicant

and

KAMOGELO LEGARI

Respondent

In re:

KAMOGELO LEGARI

Applicant

and

CITY OF TSHWANE METROPOLITAN MUNICIPALITY

First

Respondent

**DIVISION HEAD: LABOUR RELATIONS MANAGEMENT,
TSHWANE METROPOLITAN MUNICIPALITY**

Second Respondent

**SENIOR STRATEGIC EXECUTIVE SUPPORT SPECIALIST:
HUMAN RESOURCES, TSHWANE METROPOLITAN
MUNICIPALITY**

Third Respondent

**DIRECTOR: HUMAN CAPITAL PROVISION AND
MAINTENANCE**

Fourth Respondent

**MEMBER OF THE MAYORAL COMMITTEE CITY OF
TSHWANE SOCIAL DEVELOPMENT**

Fifth Respondent

**ACTING GROUP HEAD: COMMUNITY AND SOCIAL
DEVELOPMENT, TSHWANE METROPOLITAN
MUNICIPALITY**

Sixth Respondent

**HUMAN RESOURCES DEPARTMENT HEAD:
TSHWANE METROPOLITAN MUNICIPALITY**

Seventh Respondent

JUDGMENT

DOMINGO, AJ

Introduction

- [1] This is an opposed rescission application in which the the applicant, City of Tshwane Metropolitan Municipality seeks an order rescinding the order granted by Kooverjie J, on 12 July 2022, (“the Kooverjie J Order”). This application is

made in terms of Rule 42(1)(a) of the Uniform Rules of Court, alternatively the common law.

- [2] At the time of the hearing counsel on behalf of the applicant, withdrew the application made in terms of Rule 31(2)(b) of the Uniform Rules of Court, and submitted that the applicant would no longer proceed with that application.

Background

- [3] This rescission application emanates from an urgent application brought by the respondent on the 6 July 2022, in which the respondent sought an order compelling the applicant to pay the respondent his monthly salary from 1 April 2022 to 30 June 2022.
- [4] The application was served on the applicant on or about 8 July 2022. The application was set down on 12 July 2022 and was unopposed as there was no answering affidavit filed on record and no appearance made on behalf of the applicant.
- [5] The order was accordingly granted on an unopposed basis, The order granted by Kooverjie J, reads as follows:

- “1. That the application is enrolled as an urgent application and that the forms and service provided for in the rules of Court be dispensed with as provided for within the provisions of Rule 8 of the Rules of this Honourable Court.
2. That the merits of the Application together with the above issue of urgency are dealt with, considered and heard simultaneously.
3. That the First Respondent an/or its designated official(s) is ordered to immediately pay the Applicant namely Kaogelo Legari...with employee number 1[...], his monthly salary less any statutory and/or mandated deductions from 1 April 2022 up to and including 30 June 2022.
4. That if any of the Respondents fail to pay the Applicant his salary as granted in prayer 3 above, the Applicant is granted leave to approach

this Honourable court on the same and/or supplemented papers for contempt proceedings.

5. That the Respondent is ordered to pay the costs of this application on a party and party basis.”

[6] In May 2023, the respondent in this matter brought an application to vary the above judgement as the Koorverjie J order did not state the monthly amount of the salary to be paid to the respondent.

[7] On the 27 September 2023, Ntuli AJ, granted a variation of the Koorverjie order. The order granted by Ntuli AJ, reads as follows:

“Having read the papers in the matter, Paragraph 3 of the Order granted on 12 July 2022 is varied to read as follows:

1. That the first respondent and/or its designated official(s) is ordered to immediately pay the Applicant’s monthly salary, in the sum R 23 980.00 per month, less any statutory and/or mandated deductions for the months from 1 April 2022 up to and including April 2023 which total sum is R287 760.00.
2. No order as to costs.”

[8] On the 12 September 2023, the applicant launched these rescission proceedings in terms whereof the applicant seeks to rescind and set aside the Koorverjie J order dated 12 July 2022. The applicant has not included the Ntuli AJ order in its application for rescission.

Issues

[9] The issues to be determined are as follows:

- 9.1 The issue for determination is whether the jurisdictional requirements in terms of Rule 42(1)(a) of the Uniform Court Rules or the common law have been met to have the Koorverjie J order rescinded.

- 9.2 Whether the applicant has made out a case for the condonation for the late filing of the rescission application.
- 9.3 Whether the respondent has made out a case for condonation for the late filing of respondent's answering affidavit.

Legal Framework

[10] Rule 42(1)(a) of the Uniform Court Rules provides that the court may rescind "an order or judgment erroneously sought or granted in the absence of any party affected thereby." On relying on this rule, the applicant must show that the order sought to be rescinded was granted in their absence (first ground) and that it was erroneously granted or sought (second ground). Thus, both grounds must be shown to exist and if these requirements are met, a court is merely endowed with a discretion, which must be influenced by considerations of fairness and justice and is not compelled to rescind an order.¹ "Generally, a judgment/order would have been erroneously granted if there existed at the time of its issue, a fact which the court was not aware of, which would have precluded the granting of the judgment/order and which would have induced the court, if aware of it, not to grant such a judgment/order."²

[11] The common law, two-part test for rescission sets out that the applicant must firstly, provide a reasonable and satisfactory explanation for its absence or default and secondly, the applicant must show that it has a bona fide defence which exhibit reasonable prospects of success in the matter. Both requirements must be met before a court can rescind an order.³

Point in Limine

[12] The respondent raised a point *in limine* that the Koorverjie J order had no force or effect and therefore was incapable of being rescinded in that the Koorverjie

¹ *Zuma v Secretary of the Judicial Commission of Inquiry into Allegations of State Capture and Fraud in the Public Sector Including Organs of State and Others* (CCT 52/21) [2021] ZACC 28; 2021 (11) BCLR 1263 (CC) (17 September 2021) at para 53.

² *South African Human Rights Commission and Others v Madibeng Local Municipality and Others* (21099/2017) (17 January 2024); *supra*.

³ See *supra* note 1 above.

order was varied by the order of Ntuli AJ and it is the order of Ntuli AJ that has the final and binding effect.

[13] The respondent submitted that in the case of *Zweni v Minister of Law and Order of the Republic of South Africa*⁴ the court informs us that a decision is final in nature if it resolves the substantial portion of a dispute. A decision must have three attributes: namely; (a) must be final; (b) must not be susceptible of alteration and must be definitive of the rights of the parties; and (c) must have the effect of disposing of at least a substantial portion of the relief claimed.

[14] It is averred by the respondent that whilst it may be accepted that the order of Koorverjie J was final, its legal effect or finality was subsequently denuded by the Ntuli AJ order. It is submitted by the respondent that the Ntuli AJ order meets the hallmark or attributes of a final judgment or order as stated in the *Zweni*⁵ case. The respondents further averred that what amplifies their proposition is the fact that the Koorverjie J order could not be properly executed and complied with by the applicant in that no amounts due to the respondent were stated therein. It is the order of Ntuli AJ that communicated the true intention of the order of Koorverjie J.

[15] In the alternative the respondent submitted that the applicant ought to have sought to rescind both the orders (Koorverjie J and Ntuli AJ orders).

[16] Ordinarily, it would have been expected that the respondents would have sought to have rescinded the Koorverjie J and Ntuli AJ orders. However, in the present matter the rescission application is to rescind the initial order, which is the Koorverjie, J order. The question the court faces in this respect is whether the variation order (Ntuli AJ order) exists independently of the initial/main order (Koorverjie J order) it was intended to vary.

From the evidence presented in this case, I am of the opinion that the Ntuli AJ order was made as a consequence of the Koorverjie J order. The two orders are intrinsically linked, thus if the Koorverjie J order is rescinded, it would follow that

⁴ [1993] All SA 365 (A).

⁵ *Supra*.

the variation order of Ntuli AJ would become inoperative; as the Ntuli AJ order varies paragraph 3 of the Koorverjie J order, by providing the sum of the monthly salary amount due to the respondent.

[17] In the premises, I find that the point *in limine* raised by the applicant is without success.

Respondent's opposition

[18] The respondent opposed the rescission application on three grounds:

- 18.1 First, the respondent contended that the order sought is incompetent in that the order of Koorverjie J has since been varied by that of Ntuli AJ; no rescission relief had been sought against the Ntuli AJ order.
- 18.2 Second, the respondent contended that the Koorverjie J order was not erroneously granted in that there were no apparent errors on the record which, had the court took cognisance of, would not have granted the order.
- 18.3 Third, the respondent contended that the order was not granted in the absence of the applicant because the applicant was served with the application, was legally represented, entered a notice to oppose, allegedly appeared in the wrong court and/or failed to appear before Koorverjie J.

Rule 42(1)(a)

a) Erroneously sought or granted

[19] The applicant submitted that it is common cause that during December 2021 the respondent assumed the occupation as PR Counsellor while in the employ of the applicant. This admission is made by the respondent in paragraph 7 of the founding affidavit in support of the urgent application.

[20] The applicant submitted that the Koorverjie J court erred by not considering Regulation 3(5) of the Regulations Regarding the Participation of Municipal Staff Members in Elections, read also with section 21(2) of the Local Government: Municipal Structures Act, 1998.

[21] Regulation 5 states that subject to section 21(2) of the Local Government: Municipal Structures Act, 1988:

“[A] staff member who has been elected as a member of the National Assembly, a provincial legislature or a municipal council shall be deemed to have resigned from the employer concerned with effect from the date immediately before the date she or he assumes office.”

[22] The applicant averred had the Koorverjie J court considered the aforementioned provisions, it would not have granted an order stating that the respondent must receive his salary for the months of April until end of June 2022 because he was deemed to have resigned.

[23] The respondent contends that the applicant’s basis for rescission, other than wilful failure to oppose, is that it has a strong defence and if such defence was presented before the Koorverjie J court the respondent’s application would not have been granted. The respondent directed the court to the case of *Lodhi 2 Properties Investments CC v Bondev Development (Pty) Ltd*⁶ where the court held as follows:

“A court which grants a judgment by default like the judgment we are presently concerned with, does not grant the judgment on the basis that the defendant does not have a defence: it grants the judgment on the basis that the defendant has been notified of the plaintiff’s claim as required by the rules, that the defendant, not having given notice of an intention to defend, is not defending the matter and that the plaintiff is in terms of the rules entitled to the order sought.The existence or non-existence of a defence on the merits, is an

⁶ 2007 (6) SA 87 (SCA) at para 27.

irrelevant consideration and, if subsequently disclosed, cannot transform a validly obtained judgment into an erroneous judgment.”

[24] I am of the view that the Koorverjie J court could not have erred by not considering Regulation 3(5) of the Regulations Regarding the Participation of Municipal Staff Members in Elections, read with section 21(2) of the Local Government Municipal Structures Act, 1988, if these provision were not placed before the court at the time of the issue of the order as averred by the applicant. Instead the question to be determined is whether, if at the time of the issue of the order, if the Koorverjie J court was aware of the regulation read together with the Act, would it have precluded the court from granting the order and induced the court not to grant the order. If answered in the affirmative, then the judgment/order would have been granted erroneously.

[25] Having read the files on record and particularly the respondents founding affidavit in respect of the urgent application sought, the Koorverjie J court was made aware by the respondent, that in and during December 2021, he commenced the process of declaring that notwithstanding his position as an employee of the applicant, he held a separate and political post as a PR Councillor with the Rustenberg Local Municipality. In furtherance of such declaration, the respondent in his founding affidavit states that he enquired from the Human Resources Office of the applicant as to whether his position in the Rustenberg Local Municipality compromised and/or was unlawful considering his employment with the applicant. The respondent was then informed by an official of the applicant that his engagement and services with the Rustenberg Local Municipality did not contravene any policy, procedure, and/or regulation of the applicant and was accordingly permissible. This correspondence was provided to the Koorverjie J court. The following is extract of that correspondence that lends itself to an interpretation of Regulation 3(5) read with section 21(2) of the Local Government Municipal Structures Act, 1988:

“As to the issue of councillors working full or part time, Mr [M] explained that once the IEC had declared an individual a full-time councillor the council of

origin could no longer employ him or her. A full-time councillor would not be allowed to hold any other work. On announcement from the IEC the person would cease to be on leave and would take up his or her new position. In terms of a part time councillor, Mr [M] explained that should a staff member win an election in another municipality he or she would be allowed to be a councillor in one municipality and work in another. He would not be allowed to work and be a councillor for the same municipality but only for two different municipalities.”

[26] In the premises, I am of the opinion that the applicant in this matter seeks to raise a defence against the aforementioned correspondence provided by its own official(s) to the respondent. If the Koorverjie J court was provided explicitly with the Regulation 3(5) read with section 21(2) of the Local Government Municipal Structures Act, 1988, I am not convinced that it would have precluded and induced the court to not grant the order. Instead, taking into account the totality of evidence it would have allowed the court an opportunity to engage with an interpretation of the Regulations together with the Act in the context of a staff member, winning an election as a part time councillor in one municipality and working in another municipality. As quoted earlier, in the *Lodhi 2 Properties Investment CC*⁷ case “[t]he existence or non-existence of a defence on the merits is an irrelevant consideration and, if subsequently disclosed, cannot transform a validly obtained judgement into an erroneous judgment.” Furthermore, I am of the view that an application for rescission is not for debating and revisiting all the merits. I am in agreement with the respondent that a rescission application is not for the applicant to contend that it has a strong defence and that if such defence was presented before the Koorverjie J court the respondent’s application would not have been granted. Thus, the applicant fails to meet the first jurisdictional requirement of Rule 42(1)(a).

b) *Absence of the other party*

[27] It is submitted by the applicant that the respondent gave the applicant only a period of one day to file a notice of intention to oppose the urgent application

⁷ *Supra*.

and also file an answering affidavit, which was extremely unreasonable. The applicant submitted that fortunately, it managed to file a notice of intention to oppose but could not file an answering affidavit because consultation could not be held within 24 hours with all the cited respondents at the time and the legal representatives.

[28] The applicant further submitted that the court roll for urgent matters, which was accessible to the applicant's legal representatives for the hearing on that particular date was that of Judge Bam, which indicated that matters would be heard virtually. Unfortunately, the matter was not on that roll. It is submitted by the applicant that on the morning of the hearing, the applicant's attorney contacted Judge Bam's secretary to confirm that the matter was on the roll, in order to enter an appearance and confirm that the matter was defended. The Judge's secretary informed her that the matter was on another Judge's court roll, being Judge Kooverjie and that the matter was to be heard in an open Court in the Palace. The applicant submitted that the applicant's legal representatives could not make it to court on such short notice.

[29] In the *Zuma*⁸ case the court held that the requirement and meaning of the word "absence" in Rule 42(1)(a) "exist[s] to protect litigants whose presence was precluded, not those whose absence was elected." The court further stated that, "a decision by a party not to participate in proceedings where they have received notices of those proceedings and being given the opportunity to do so does not qualify as that party having been absent for the purposes of Rule 42(1)(a)."

[30] In this matter, the applicant was correctly invited to participate in the proceedings according to the rules of court. The applicant duly entered a notice of intention to defend. It is submitted by the respondents that on the 8 July 2022 the applicant's attorneys of record addressed correspondence to the respondent in which they communicated their appointment as attorneys of record and also attached a notice of intention to oppose in the same

⁸ *Supra* note 1 above.

correspondence. For these reasons, I find that the order was not granted in the absence of the applicant. The applicant thus fails to meet the second jurisdictional requirement of Rule 42(1)(a).

Common Law

a) Default or absence

[31] As stated in the preceding paragraphs, the applicant submitted it could not consult timeously due to the urgent application time constraints and was therefore unable to submit an answering affidavit. Furthermore, the applicant's legal representatives could not make an appearance in court because they found out on the morning of the hearing that the matter was not being heard virtually by Judge Bam and that the matter had moved to the roll of Judge Koorverjie.

[32] It is contended by the respondent that the explanation that the applicant could not consult timeously does not constitute a reasonable explanation for the default, especially where legal representatives were appointed at least four days before the hearing (including a weekend). It submitted by the respondent that the applicant fails to explain why the relevant employees could not be consulted from 08 July 2022 to 12 July 2022 other than that one employee was on suspension or leave.

[33] It is averred by the respondent that more worryingly is the explanation by the applicant of the events of the day of the hearing. The respondent submitted that from the applicant's explanation it can be deduced that the applicant had legal representation on the day of the hearing; the legal representatives were informed that matter was on the roll, they knew the matter was on the roll, they nonetheless failed to appear. It is submitted by the respondent that accordingly the default was wilful.

[34] It is also alarming to me that, after discovering the matter had been moved to Judge Koorverjie, the applicant's legal representatives did not attempt to remedy

the situation but simply resigned themselves to the belief that they could not make it to court on such short notice, despite knowing the legal consequences of not appearing.

[35] In the premises, I am not convinced the applicant has provided a reasonable and satisfactory explanation for their default or absence.

b) Bona fide defence and reasonable prospect of success

[36] It is submitted by the applicant that in terms of Regulation 3(5) of the Regulations Regarding the Participation of Municipal Staff Members in Elections, read with section 21(2) of the Local Government Municipal Structures Act, the respondent was deemed to have resigned from his employment with the applicant because he took occupation in a different municipality as a PR Councillor, therefore he was no longer entitled to his salary from January 2022. It is further submitted by the applicant that even though the respondent declared to his superiors that he is occupying another position in another municipality; the aforementioned legislation and regulations remained in full force.

[37] It is averred by the applicant that though in South Africa ignorance of the law is a defence⁹, the ignorance must be genuine or *bona fide*. The applicant directed the court to *S v Waglines (Pty) Ltd and Another*¹⁰ where this principle has been articulated by the court as follows:

“[I]gnorance of or a mistake about the law is indeed an excuse cognisable by our courts. The excuse does not always amount, however, to an acceptable one. That the ignorance or mistake must first be both genuine and material goes without saying, Less obviously, but in principle not less necessarily, it has to be reasonable in addition whenever *culpa* enters the reckoning, whenever that serves as *mens rea*. It cuts no ice otherwise, since the unlawful act which it explains is then committed through *culpa*. The question therefore posed by

⁹ See *S v De Blom* 1977 (3) SA 513 (A).

¹⁰ 1986 (4) SA 1135 (N) at 1145 paras H/I to 1146 C/D.

such a case is whether the person concerned should reasonably have realised that what he was doing or about to do might well be unlawful. And the answer depends largely on the care he took or did not take to acquaint himself with the true legal position. The duty to investigate this is clear, to speak generally at all events and not of any area where the law's reach is suspected so little that the possibility of trouble and the consequent need for caution would never occur to a prudent mind. Strong demands are placed, by comparison, on all those engaged in trades, occupations or activities which are legally regulated and known by them to be. They are expected to learn the rules and obliged to make the effort.

Sometimes, to be sure, the duty to investigate will be performed satisfactorily when advice on the lawfulness or otherwise of the course envisaged is obtained from a source ostensibly qualified to furnish such, and to think it lawful will be reasonable once the assurance has thus been given that it is"

[38] The applicant contends that the respondent went through a tireless process of campaigning and securing votes in his favour to be appointed as a PR Councillor in terms of the Local Government: Municipal Electoral Act, 2000 (Act 27 of 2000) but failed to acquaint himself with the consequences of his appointment. Thus, it is averred by the applicant that the respondent's ignorance of the consequences that comes with being appointed as PR Councillor of one municipality whilst in the employment of the other municipality was indeed wilful and unpardonable.

[39] As a result, the applicant contended that it had a *bona fide* intention to prevent a miscarriage of justice wherein an individual is unduly rewarded for the ignorance of the law.

[40] Taking into account the totality of evidence, I am of the opinion as articulated in the *Waglines*¹¹ case cited extensively above, that the applicant undertook to investigate the lawfulness of his appointment as as PR Councillor of one municipality whilst being employed in another municipality. He sought advice

¹¹ *Supra*.

from the applicant's Human Resources Department, who furnished him with reasons on which he relied as they are ostensibly qualified to provide such information.

[41] The respondent contended that the applicant's application was not brought *bona fide*. They averred that it was brought to simply avoid the execution of the court order. The respondent submitted that the applicant had knowledge of the respondent's application and the Kooverjie J order as far back as 12 July 2022. However, the rescission application was only brought in September 2022 after the Sheriff attempted to execute the court order.

[42] The respondent furthermore contended that the applicant's prospects of success are outweighed by the lack of explanation of the default and the apparent wilful or neglect failure to oppose the respondent's urgent application.

[43] In the premises, I am not satisfied that the applicant has shown a *bona fide* defence which exhibits reasonable prospects of success.

Condonation of the late filing of the rescission application

[44] The applicant sought condonation for the filing of the rescission application. The applicant submitted it became aware of the order on 12 July 2022 and filed a rescission application on 12 September 2022. It is submitted by the applicant that the delay was caused by the process of having to secure counsel to attend to the brief, agree on a date for consultation with all the relevant employees of the applicant and have a date that is suitable for all the participants.

[45] The respondent submitted that while the applicant did submit their rescission application in September 2022, the applicant did nothing to bring the rescission application to finality until almost a year and half later. This thus fortifies the respondent's belief that the rescission application was brought by the plaintiff merely for the purposes of frustrating the execution of the order. Furthermore, it is averred by the respondent that what compounds the applicant's case is that the Ntuli AJ order is not challenged at all by the

applicant. The respondent has not made an application for the rescission of the Ntuli AJ order.

[46] In the *South African Human Rights Commission*¹² case the court stated:

“The first principle that applies in an application for rescission under Rule 42(1) and the common law is that the application must be brought without delay within a reasonable time. Even more so is the principle applicable to applications for condonation where a party seeks the court’s indulgence. Significant with a determination of such applications is that condonation cannot be had for the mere asking, and a party seeking condonation must make out a case entitling it to the court’s indulgence by showing sufficient cause and giving a full detailed and accurate account of the cause of the delay. In the end, the explanation must be reasonable enough to excuse the default.”

[47] I am satisfied that the applicant has provided a reasonable and satisfactory explanation for the late filing of the rescission application. Taking into account the explanation provided by the respondent, a two-month delay is not an excessive delay in filing the application. However, the applicant does not provide an explanation why it took almost two and half years to bring the rescission application to finality. The condonation application deals with the late filing and not the delay in bringing the matter to finality, in the premises I grant the condonation of the late filing of the rescission application.

Condonation of the respondent’s answering affidavit

[48] The respondent seeks condonation for the filing of his answering affidavit which should have been filed 15 days from the receipt of the rescission application. The *dies* expired in November 2022 and the respondent filed his answering affidavit on 21 June 2024, almost two years later.

¹² *Supra* note 2 above at para 28. See also *Nair v Telkom SOC Ltd and Others* (JR59/2020) [2021] ZALCJHB 449 at para 19 (7 December 2021).

[49] The respondent submitted that his failure to oppose the application was that his erstwhile legal representative did not inform him of the receipt of the rescission application. To his knowledge, the enforcement and/or execution of the Koorverjie J order was underway. Moreover, he was informed by his erstwhile legal representative that the Koorverjie J order had been varied by the Ntuli AJ order in September 2023. That was the last communication he had with his legal representative.

[50] The respondent submitted that he only became aware of the rescission application when he received the notice of set down in May 2024, that the matter was set down on the unopposed motion roll for 25 June 2024. Having learned of the set down, he immediately contacted his erstwhile legal representative on his cell phone on numerous occasions without success. The respondent submitted that he then approached his current attorneys of record on 4 May 2024 and instructed them to oppose the rescission application. They only managed to engage the services of counsel on 8 May 2024. Thus, the respondent contends that the late opposition of this application was not wilful.

[51] I am satisfied that the respondent has provided a reasonable and satisfactory explanation for the delay in filing his answering affidavit. In the interest of justice and because the applicant will not suffer any undue prejudice, I grant the condonation of the late filing of the respondent's answering affidavit.

Conclusion

[52] Having regard to all of the above, having read all the papers filed on record and having heard counsel of both parties; I am of the view that the applicant has failed to satisfy and meet the jurisdictional requirements of a rescission application under Rule 42(1)(a) and the applicant has failed to meet the requirements of a rescission application under the common law. Accordingly, the applicant's rescission application under Rule 42(1)(a) and the common law falls to be dismissed.

Order

[53] In the circumstances, the following order is made:

- 53.1 Condonation of the late filing of the applicant's rescission application is granted.
- 53.1 Condonation for the late filing of the respondent's answering affidavit is granted.
- 53.2 The applicant's application to rescind the court order granted on 12 July 2022 under Rule 42(1)(a) is dismissed.
- 53.3 The applicant's application to rescind the court order granted on 12 July 2022 under the common law is dismissed.
- 53.4 The applicant is ordered to pay the costs of this application on a party and party scale.

W DOMINGO
ACTING JUDGE OF THE HIGH COURT
PRETORIA

Delivered: This judgment was prepared and authored by the Judge whose name reflected and is handed down electronically by circulation to the parties' legal representatives by email and uploading it to the electronic file of this matter on CaseLines. This matter was heard in open court on the 11 February 2025. The date for hand-down is deemed 11 May 2025.

APPEARANCES

For the Applicant: ADVOCATE P.P BALOYI instructed by LEEPILE
ATTORNEYS INC

For the Respondent:

ADVOCATE MUNTU SITHOLE instructed by
GARDEE GODRICH ATTORNEYS