



THE LABOUR COURT OF SOUTH AFRICA, JOHANNESBURG

Not reportable
Case No: J 4/25

In ex parte application of:

LINDIKHAYA NGQAZA

Applicant

In re:

LINDIKHAYA NGQAZA

Applicant

and

SEBOTSE CONSTRUCTION CC

First Respondent

(Registration: 2004/057508/23)

FIRST NATIONAL BANK LIMITED

Second Respondent

ABSA GROUP LIMITED

Third Respondent

NEDBANK LIMITED

Fourth Respondent

STANDARD BANK GROUP LIMITED

Fifth Respondent

Heard: 5 February 2025

Delivered: 12 March 2025 (This judgment was handed down electronically by emailing a copy to the parties. The 12 March 2025 is deemed to be the date of delivery of this judgment).

Summary: Bank attachment – writ of execution – requirements for attachment of incorporeal property – court application not necessary – garnishee procedure.

JUDGMENT

RAMJI, AJ

Introduction

[1] On 5 February 2025, the applicant's representative moved this application asking the Court to:

- 1.1. *“direct” the sheriff “to attach all bank accounts held with/by the second to fifth respondents under the name [of the first respondent]” and to “cause to be realised the sum of R200,144.26” with interest (the first judgment debt); and*
- 1.2. *“direct” the sheriff “to attach all bank accounts held with/by the second to fifth respondents under the name [of the first respondent]” and to “cause to be realised the sum of R96,393.04” with interest (the second judgment debt).*

[2] The first judgment debt arises from a voluntary severance package that was made an order of court by Beckenstrater AJ on 4 September 2024. The second judgment debt arises from the taxed bill of costs resulting from the applicant unsuccessfully chasing the first judgment debt. The bill was taxed on 12 November 2024, and as with the previous application, I am not called to review the taxation. I am asked merely to assist with the recovery of the bill as it stands, which includes appearance fees in unopposed motions of R28,000 per day.

[3] I cannot, however, grant the relief.

[4] The relief sought and the basis on which it is sought is like the relief sought in *Mokoma v M-NJR and Owethu Consulting (Pty) Ltd & others* (J03-25). I have handed down judgment in that matter on 11 March 2025.

[5] I refused the relief sought in that matter on the basis that the applicant essentially seeks a writ of execution for the attachment of incorporeal property, and a judge is not competent to “order” a writ of execution.

[6] This application is dismissed for the same reason.

[7] In this case, the applicant was retrenched, and his representative has previously tried to find and communicate with the first respondent and has been unable to sustain communication after being blocked on WhatsApp. The sheriff has not in the past found anything at the first respondent’s registered business address and other employees known to the applicant have been retrenched and cannot assist him in locating the first respondent. There is a record to prove this.

[8] In the circumstances, the applicant may decide to ultimately attach the monies held in the bank account of the first respondent, once these banking details have been determined. The procedure is governed by Uniform Rule 45(12)(a), which also does not require a prior court application. This is only required in the Magistrate’s Court Rules which this Court does not follow. The applicant would therefore obtain a writ, and any non-compliance with the writ by the garnishee may then be brought to court.

Order

1. The application is dismissed.

B. Ramji

Acting Judge of the Labour Court of South Africa

Appearances:

For the Applicant: S G Seepamore, S G Seepamore Inc

LABOUR COURT