

IN THE HIGH COURT OF SOUTH AFRICA
GAUTENG DIVISION, PRETORIA

CASE NO: 143809/2024

DATE: 20-05-2025

DELETE WHICHEVER IS NOT APPLICABLE

(1) REPORTABLE: NO.

(2) OF INTEREST TO OTHER JUDGES: NO.

(3) REVISED.

DATE



SIGNATURE

10 In the matter between

LENAH MOTLAHABO LEBELO

Applicant

and

FIRST NATIONAL BANK

Respondent

J U D G M E N T *EX TEMPORE*

20 **WILSON J:** The applicant, Ms Lebelo, approaches me in urgent court for relief which is substantially identical to that sought in an application that Ms Lebelo has brought in the ordinary course.

The relief concerns the distribution of Ms Lebelo's late father's estate. In the main application, brought in the ordinary course, Ms Lebelo seeks that she and the estate of her deceased sibling each be given a child's portion of her late father's estate. It is Ms Lebelo's case in that application

that the respondent, FNB, acting in its capacity as her late father's executor, unlawfully devolved the estate, in its entirety, upon Mr. Lebelo's deceased father's wife.

I can understand, at the very abstract level, the frustration that litigants, especially those who, like Ms. Lebelo, cannot afford legal representation, feel with the pace with which the law moves. But the urgent court is reserved for truly urgent matters. An urgent matter is a matter in which an applicant requires that the court intervene in order
10 to preserve their rights pending the resolution of a dispute in the ordinary course, or in which the court makes a final order necessary to avoid some calamity that will ensue if the applicant is required to seek relief in the ordinary course.

Unfortunately, Ms Lebelo has not set out in her papers the exigencies of her situation and the reasons why the urgent court is required to intervene in her case today, essentially by granting the same relief which she seeks in an application that has been brought in the ordinary course.

It follows that I have no idea one way or the other
20 whether this application might be urgent. The facts have not been set out.

The question before me is what relief I should grant, given that reality. One option would be to strike the application from the roll. The effect of this would be that the application may not be enrolled again in urgent court without

the leave of the Judge then presiding and without Ms Lebelo having explained why, notwithstanding the striking order, she should be allowed to approach the urgent court again.

The other option is simply to remove the matter from the roll, which would leave the way open for Ms Lebelo to set out in some detail, if she can, the reasons why her application should be given preference, and to approach the urgent court simply by setting the matter down again.

Given that Ms Lebelo is a lay litigant and may not
10 have been familiar with the rules applicable to enrolling an application in urgent court, I am inclined to make an order of the second type. This means that I shall remove the matter from the roll, but Ms Lebelo, if she can, will be entitled to file an affidavit setting out contentions which may convince a Judge in a future urgent court to consider the matter urgently.

Ms Lebelo must of course be cautioned that if she brings the matter back before an urgent court without setting those facts out, or if she set out facts that do not convince
20 another judge of the urgency she claims, then she is at risk of an order striking her application from the roll and very possibly also at risk of a costs order, which will compound the financial difficulties she has told me she has. Nonetheless, today, I prefer to show lenience.

Ms Webster, who appeared for FNB, asks for costs.

This is axiomatically not a case in which a costs order should be made. I would be slow to make a costs order against a lay litigant unless a genuine and conscious abuse of process had been committed. There was no such abuse in this case.

I make the following order.

1. The application is removed from the roll.
2. Each party will pay their own costs.

