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**IN THE HIGH COURT OF SOUTH AFRICA  
(WESTERN CAPE DIVISION, CAPE TOWN)**

**Case No: 11184/2018**

In the matter between

**THE STANDARD BANK OF SOUTH AFRICA**

Applicant

AND

**GABEBA HENDRICKS**

Respondent

Date of Hearing: 28 May 2025

Date of Judgment: 09 July 2025

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**JUDGMENT**

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**THULARE J**

ORDER

- (a) The remainder erf 1[...] Goodwood, in the City of Cape Town, Cape Division, Province of the Western Cape (the property) is declared specially executable.
- (b) The issue of a writ of execution in terms of Rule 46 read with Rule 46A of the Uniform Rules of court, for the attachment of the property, is authorized.
- (c) A reserve price in the amount of R850 000-00 is set out for the sale of the property at a sale in execution.
- (d) The respondent to pay the costs on the scale as between attorney and client.

[1] This is an opposed Rule 46A application set down on the semi-urgent roll. The attorneys who represented the respondent withdrew and the respondent was now representing herself. The applicant obtained default judgment against the respondent on 31 August 2018. Various movable property of the respondent was attached to but did not satisfy the debt. The applicant then instituted this application wherein it sought an order declaring the immovable property specially executable. The property was the respondent's primary residence and the applicant's case was that there were no alternative means by which the respondent could satisfy the debt.

[2] The parties entered into a written loan agreement for an amount of R580 000-00 secured by a mortgage bond registered over the property. During 2014 the respondent defaulted on her monthly payments, prompting the initiation of a debt review process. The process was terminated on 14 July 2014 due to the respondent's non-compliance with the repayment arrangement between the parties. Between 2016 and 2018 the respondent provided several undertakings to reduce her arrears but failed to do so. On 17 May 2018 the applicant caused section 129 notice of the NCA to be sent to the respondent by registered post. The respondent did not respond to the notice. On 25 June 2018 the applicant issued summons against the respondent. The respondent did not defend the action. The applicant obtained default judgment against the respondent for an amount of R824 603-14.

[3] On 28 September 2018 the sheriff served a writ of execution in respect of the respondent's movable property and proceeded to attach assets to the value of R20 000-00. The respondent was at that stage in arrears of R300 743-50 and the estimated value of the assets were less than 5% of the arrears. The applicant refrained from initiating a forced sale of the movable assets to avoid leaving the respondent without any movable assets while a significant judgment debt remained unresolved. At the time and until March 2020, the respondent made certain payments towards her arrears. Her last payment in the amount of R13 800-00 was made on 16 March 2020. Since then, and during the last five years, no further payments have been made by the respondent. This application was initially set down for 17 April 2020 but as a result of inter alia Covid, further attempts to reach a settlement of the matter, and the extremely delayed filing of the respondent's answering affidavit, the matter was finally postponed to the semi-urgent roll for hearing on 29 May 2025.

[4] As of 3 April 2025 the outstanding rates and taxes due to the municipality on the property were R939 271-44 and as of 17 April 2025 the arrears on the loan agreement was R1 044 482-77. The outstanding amount in respect of the loan agreement was R1 399 473-56. The respondent did not raise any substantive defence or opposition to the claim. In her statement both in writing to and before the court, she indicated that she experienced severe financial hardships during the period of her being in arrears which led to her inability to meet the bond repayments. She indicated that she was able to pay a lump sum of R100 000 immediately and to resume monthly payments of R10 000-00 as well as an additional amount of R5000 towards the arrears. She was in negotiations with the municipality in respect of the municipal account. Her husband now had a stable income of R17000 salary and both her sons were having stable jobs and were willing and able to assist with monthly payments. She was waiting for a RAF claim payment which she intended to use towards the arrears, which accident happened over 10 years ago.

[5] In *Gundwana v Steko Development* 2011 (3) SA 608 (CC) at 626F-G it was said:

“It is only when there is a disproportionality between the means used in the execution process to exact payment of the judgment debt, compared to other available means to attain the same purpose, that alarm bells should start ringing. If there are no other proportionate means to attain the same end, execution may not be avoided.”

The parties have exhausted alternative avenues to settle the arrears. There was debt review, restructuring payments, subdividing of the property and the extension of time for payments. All of these did not assist in reducing or settling the debt. Despite all these efforts, the amount of debt was escalating and remained unsatisfied. The judgment debt was R824 603-14 plus interest. The municipal valuation of the property was R980 000-00. The property was independently valued at R1 000 000-00. The estimated forced value was R850 000-00. The amount owing on the mortgage bond was R1 399 473-56. The amount owing to the municipality was R939 271-44. The amounts owing on the bond and to the municipality are very high. Despite commitments, promises and hopes, no payments have been made in respect of the property in the last 5 years and it is clear that the respondent has no means to afford to make payment of the judgment debt. The property was acquired entirely with the assistance of the loan advanced by the applicant. Under the circumstances, the execution of the property seems to me to be proportionate. In this matter, execution is not only unavoidable, but the only option available to settle the debt. For these reasons the order was made.

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**DM THULARE**  
**JUDGE OF THE HIGH COURT**