



IN THE HIGH COURT OF SOUTH AFRICA
GAUTENG DIVISION, JOHANNESBURG

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

Date: 16 July 2025

Signature: [Redacted]

CASE NO: 2025/094050

DATE: 16 July 2025

In the matter between:

GWEDA SAMSON MANTASHE

Applicant

and

ZAKHELE ZUMA

Respondent

Coram: M Van Nieuwenhuizen, AJ

Heard on: 9 July 2025

Delivered: 16 July 2025

JUDGMENT

M VAN NIEUWENHUIZEN, AJ:

[1] This is an urgent application in terms of which the applicant *inter alia*

seeks final declaratory and interdictory relief against the respondent. The applicant alleges that the respondent is continuing to publish false and defamatory statements about him. The applicant alleges that these false and defamatory statements relate to unfounded allegations made by the respondent about him in various publications. The respondent alleges that the applicant received R40 Million from a company called East Rand Proprietary Mines (“*ERP Mine*” or “*the Mine*”), which was meant for miners previously employed by the Mine.

- [2] The applicant alleges that the false and defamatory statements were published without probable evidence and without affording him with sufficient opportunity to provide his side of the story. He argues that these are serious allegations which impugn on his constitutional right to dignity¹ and the reputation of the office that he holds. The applicant further alleges that the conduct of the respondent threatens his safety as people who worked for the Mine are made to believe that he has received and retained R40 million from ERP Mine, which belongs to them.

- [3] The applicant denies these alleged false and defamatory allegations. The applicant states that to date, the respondent has failed to provide justification for the publication. Instead, he is continuing with the publication of these alleged false and defamatory statements and threatening the applicant with violence.

- [4] The applicant states that after President Ramaphosa was elected as the President of South Africa in February 2018, he appointed the applicant to his cabinet as the Minister of Mineral Resources and Energy. The portfolio is now referred to as Mineral and Petroleum Resources and he is still serving as the Minister. The applicant states that he is also the

¹ Section 10 of the South African Constitution (Act 108 of 1996) guarantees the right to human dignity. It states that everyone has inherent dignity and the right to have their dignity respected and protected. This section is fundamental to the protection of individuals within the South African legal framework.

Chairperson of the ANC. He alleges that the spurious and malicious allegations lower his standing both in the eyes of the ANC members and society. The applicant states that the respondent's allegations that he received R40 million from the ERP Mine are malicious, hurtful and damaging to his reputation more so that the respondent does not intend to lay a criminal charge against him or provide evidence for such allegations.

[5] The applicant states that these continuous publications by the respondent are not only false and defamatory, but they are negatively impacting the office that he holds. For this reason he *inter alia* seeks orders:

[5.1] declaring that the statements published are false and defamatory;

[5.2] directing the respondent to publish a retraction on the terms which are set out in the Notice of Motion;

[5.3] an interdict prohibiting the respondent from repeating the alleged defamatory statements;

[5.4] an order interdicting the respondent from trying to gain entrance to his workplace without authorisation – the applicant does not persist with this relief as is also apparent from his draft Court order;

[5.5] declaring that the respondent is liable to pay damages to him.

[6] The matter is opposed. The respondent denies the allegations of defamation.

BACKGROUND

The Tiktok video published on 24 May 2025

- [7] On or about the 24th of May 2025 the respondent published statements on Tiktok which the applicant argues are false and defamatory.

“Hello South Africans, this is Zakhele Zuma, the Leader of the Land and Minerals Organisation. And today I’m in the East Rand. Eh as you can see here I’ve got my mothers and fathers, they were working for the ERP Mine and it was closed down in 1999 but they never received their money. Gwede Mantashe, eehm he took over the case and then the money was paid to Gwede Mantashe, over R40 million but they’ve never ever got the money.

So now the question is, where is the money? We need eh eh Gwede Mantashe to avail himself. We going to come to his offices, we need him to tell us as to where is the money and why our mothers and fathers have not yet received the money for all this time. Imagine, we fought for democracy but our people, they are not being helped by the Government and also the Premier’s office, the Premier of Gauteng Mr Lesufi, we need you to come in and intervene on this matter because R40 million was paid ... by the Mine and you have the case that those people have never ever gotten the money.

So we need you to please release the funds as soon as possible. We will be coming to you and we need assistance, we need help, we need to expose all these leaders that are exploiting our poo ... poor people. The ANC must be ashamed of themselves to even have such a man as Gwede Mantashe and right now he is the Acting President but yet these people here they are poor.

Look at the living conditions where we are right now. The Acting President is responsible for the R40 million that was paid by the company. They don't know where it is and now we have to come in and we have to vote again.

As the Land and Minerals organisation, we are taking over this matter and we are going to resolve it and then I thank you."

The Tiktok video published on 29 May 2025

- [8] On the 29th of May 2025 the respondent published another video on Tiktok making statements, which the applicant alleges are false and defamatory, repeating the same allegations. In this video the respondent invited people to repeat the same allegations. The applicant states that in the subsequent video, the respondent is seen telling people that the applicant is the one who received R40 million from ERP Mine, which belongs to their family members. The transcription of the relevant part of the video appears at paragraph 23 of the applicant's founding affidavit.

The Tiktok video published on 2 June 2025

- [9] On the 2nd of June 2025 the respondent published another video repeating the same allegations, which the applicant alleges contain false and defamatory statements. The applicant states that in the video the respondent is seen telling people that the applicant is the one who received R40 million from ERP Mine which belongs to their family members. Relevant parts of the video recording are transcribed in paragraph 25 of the applicant's founding affidavit.

9 June 2025 – Media interview

- [10] On the 9th of June 2025 the applicant addressed the allegations in a media interview. He states that in summary, he indicated the following as a

response to the respondent's allegations:

- [10.1] He does not know Mr Zuma and his organisation called "*Land and Minerals Movement*";
- [10.2] He denies that he received any money from the Mine on behalf of the miners during 1999, or at any time;
- [10.3] He clarified that if there was any money due to the mineworkers such money would have been paid to the Mineral Council or Chambers of Mines to be distributed to the beneficiaries;
- [10.4] He feels threatened by the people who believe the "*lies*" that the respondent is propagating as they will believe that he took their money;
- [10.5] The respondent's conduct is an attempt to lower his standing in the eyes of the public and members of his organisation;
- [10.6] He therefore intended to approach his lawyers for appropriate legal action.

The Tiktok video published on 9 June 2025

- [11] The applicant states that in view of the impact that the continuing conduct of the respondent is having on his dignity, family and the office that he holds, he decided to lay a criminal charge of *crimen injuria* against the respondent at the Brooklyn Police Station.
- [12] Following the criminal charges laid against the respondent, the respondent published another video in which he is seen responding to the applicant's allegations. The applicant alleges that the respondent made

further false and defamatory statements. In the relevant parts of the video he states *inter alia* the following:

“... The people or the workers of the ERP Mine, they are accusing you, Mr Gwede Mantashe. They saying that you took R40 million of their hard earned money and you said that you’re going to invest the money and they have never spoken to you since that time. And they want you to bring their investment back with interest.

That is what the public is accusing you of. They saying that you know them in person and they asking that if you say that indeed, you do not know them and as a Minister, as a member of the ANC, come and meet them because they are a community and they are registered voters. They saying, come and meet them and tell, and tell this to their faces that you do not know them. You’ve never taken their money. You don’t know anything about them. And to furthermore, furthermore, you are saying here in this article that you are, have opened a case against me that your, your attorneys, they going to pursue me for defamation of character and so forth. We, as the Land and Minerals Organisation, they are going to charge you for perjury. We are going to charge you for defeating the ends of justice. Mr Gwede Mantashe we are going to charge you for lying under oath.”

The Tiktok video published on 10 June 2025

- [13] On the 10th of June 2025 the respondent published another statement which the applicant alleges are false and defamatory and repeating the same allegations. In this video the respondent is seen at the applicant’s ANC office in the company of a large group of people. Again, the respondent is allegedly seen inciting people and informing them that the applicant is the one who received R40 million from the ERP Mine which

belongs to them. A transcript of certain relevant parts of the video appears at paragraph 32 of the applicant's founding affidavit.

- [14] The respondent has not disputed the aforesaid videos or the statements. The respondent states that he is the leader of the Land and Minerals Movement NPC of South Africa.
- [15] The applicant denies that he has received R40 million from the said Mine or any other mine. He states that the respondent is subjecting him to abuse solely to tarnish his name with the hope that he will lose his position both in the Government and the ANC. He alleges that he has nothing to do with the payment of the miners. He states that his job as the then Secretary General of NUM was to handle the administrative work of the Union. He alleges that it is important to note that neither the Union nor the Secretary General of the Union receives benefits on behalf of employees and/or members. Any benefits due to employees and/or Union members would have been paid to the Mineral Council or Chamber of Mines for distribution amongst the beneficiaries.
- [16] The applicant alleges that the respondent not reporting the matter to the police is unfortunate and that there is no reason advanced by the respondent for failing to report these allegations to the police. The applicant argues that the intention is to impair his dignity without subjecting the allegations to scrutiny. He states that the applicant is not even willing to provide proof to the same media houses who offered him a platform to make these allegations.
- [17] The applicant argues that these statements are intended to mean and were understood by those who heard them or read them that he received R40 million, which belongs to the miners and that he kept it for himself. He alleges that not only are these allegations false but exposes him and his family to danger because he lives adjacent to mining communities and he interacts with them all the time.

- [18] The applicant alleges that the reach of these allegations is widespread, and, given the nature of social media, it was circulated widely and continues to be circulated with additional comments and innuendos. He states that the viewers of all of the stations where the allegations were made and repeated can easily access them. He states that the allegations have caused immense harm and damage to his reputation and the harm continues for each day that the respondent does not retract the allegations. He states that it is a blatant attempt to tarnish his name in the hope that the public will lose confidence in him and the office he holds.

The widespread dissemination of the allegations

- [19] The applicant states that the respondent's alleged false and defamatory statements were covered by multiple media houses due to the magnitude of the story. Some of the media houses that covered it include but are not limited to Sunday World, City Press and other online media. These platforms have a huge following in South Africa.
- [20] On Tiktok the publications generated a combined total of approximately 97 712 views, 2 586 likes and more than 421 comments on the social media platform. The respondent repeated these statements at the ANC office in full view of the public.
- [21] The applicant states that the respondent has a large following on Tiktok and therefore wields considerable public influence due to the work that the respondent does. The respondent has more than 72 100 followers on Tiktok. The applicant states that the allegations against him still appear on the respondent's Tiktok timeline. He states that his posts on Tiktok videos are viewed by thousands of Tiktok users. The applicant states that these allegations were not only discussed on the platforms mentioned above but they are being discussed on X and other social media platforms.

Publication in the printed media

- [22] On the 8th of June 2025 City Press published an article titled *“Zuma accuses Mantashe of lying under oath in ex mineworkers’ R40 million payout”*. The relevant parts of the article appear at paragraph 52 of the applicant’s founding affidavit.

“When the ERPM was liquidated in 1999, at least 4 000 workers were affected. Many had worked deep underground for years, often in unsafe conditions.

In the aftermath of the mine’s closure, workers say they were told that the National Union of Mineworkers (NUM), then under leadership of its general secretary, Mantashe, had received their settlement packages and would invest the money on their behalf.

Zuma claims Mantashe assured workers their money would be invested for ten years, but no returns have materialised. ...”

- [23] On the 6th of June 2025 Sunday World published an article entitled *“Gwede Mantashe opens criminal case against Zuma”*.

- [24] Another article entitled *“Zuma invades Lethuli House in search of Gwede Mantashe”* was published on 10 June 2025 by Sunday World. An excerpt from the article appears at paragraph 54 of the applicant’s founding affidavit and *inter alia* states the following:

“Promise not fulfilled

According to Zuma, it is the former mineworkers who say Mantashe made off with their R40-million, promising he was

going to invest it.

This occurred in 1999 when Mantashe was general secretary of the National Union of Mineworkers (NUM).

“The Land and Minerals Movement was approached by former EMRP mineworkers who were referred to us by the Department of Labour,” Zuma recalled of his first involvement in the saga.”

- [25] On the 9th of June 2025 MSN.com published an article entitled “Gwede Mantashe lays charges against Zakhele Zuma over theft claims, says he is linked with MK Party”.

THE APPLICANT’S ATTEMPTS TO SETTLE THE MATTER WITH THE RESPONDENT

- [26] On the 9th of June 2025 the applicant went to the police station and opened a case of *crimen injuria* against Mr Zuma.
- [27] On the 10th of June 2025 the applicant, through his attorneys MMMG Attorneys, sent a letter of demand to the respondent to retract the alleged spurious and defamatory allegations that the applicant received R40 million from the ERP Mine, which was meant for the miners.
- [28] The letter afforded the respondent seven days to retract his defamatory allegations and apologise.
- [29] The respondent has failed to comply with the letter of demand. The applicant states that despite his attempt to settle the issue amicably, the respondent proceeded to publish the alleged false and defamatory statements against him.

SUPPLEMENTARY AFFIDAVIT

[30] The applicant states that after the respondent had been served with the urgent application the respondent had continued to publish alleged false and defamatory videos.

[31] The applicant argues that the videos which he addresses in his supplementary affidavit are relevant to two key issues before this Court namely:

[31.1] the urgency of the matter; and

[31.2] the necessity for the Court to grant the relief sought to protect his constitutional right to dignity.

[32] On the 20th of June 2025 the respondent published a video on Tiktok, of which a transcription appears at paragraph 6 of the supplementary affidavit.

[33] On the 22nd of June 2025 the respondent published a further video on Tiktok, which the applicant alleges contains false and defamatory statements. A transcript of the video recording appears at paragraph 7 of the supplementary affidavit. The respondent states *inter alia* the following:

“... Whether a Court proves you otherwise, it doesn’t matter, but you are guilty. You owe something to these people. Something is wrong, somehow, there is a reason why you do not want to meet those people. That’s what I’m going to say as the leader of the organisation but as far as the charges and everything is concerned, I mean like, you know, its okay. Its just a repression of yourself. Return the money. No wonder why people are saying that you owe them money and besides that I heard that

it was your birthday. So like I say happy belated birthday and to the Minister, but that R40 million, it would have been a very good present to those people, to the ERMP mine workers. Just think about that, and I thank you.”

- [34] The applicant states that on Tiktok the publication generated a combined total of approximately 5 777 views, 236 likes and more than 52 comments on the social media platform.

URGENCY

- [35] The applicant's grounds for urgency appears at paragraph 57-64 of the founding papers. The respondent has not taken a point *in limine* or a point of urgency in the matter. The applicant makes *inter alia* the following allegations which are not disputed by the respondent:

[35.1] There is ongoing harm - the statements are being repeated and the respondent has no intention to retract and not repeat them;

[35.2] He and his family are being abused and accused of theft by the public;

[35.3] The applicant has received threats from certain sections of the public arising directly from the allegations made by the respondent;

[35.4] As a Minister and Chairperson of the ANC, the applicant is unable to enforce discipline both in the ANC and Government because of these allegations;

[35.5] If the allegations are false, it is in the public interest that they should be addressed without delay, to preserve the integrity of

the office that he holds. The converse also applies: if the statements are true, that would significantly impact public confidence in the office that the applicant holds.

[36] The applicant argued that substantial redress would not be afforded to him in due course. The respondent has been told to retract the allegations. He has been obdurate in his refusal. In fact, he is repeating the statements even after he had been served with the application. The applicant argues that the repetition evidences malicious intent. The applicant argues that the malicious conduct of the respondent is also relevant to urgency.

[37] The applicant relies on the matter of ***Manuel v Economic Freedom Fighters and Others***,² which he argues is a case on substantially similar facts, which was brought before this Court. False and defamatory allegations of corruption and nepotism were published against a former Minister of Finance pertaining to the manner in which the Commissioner of the Revenue Services was appointed. Declaratory and interdictory relief was also sought in that matter. One of the arguments of the respondents was that the matter was not urgent because relief could be sought in due course.

[38] The Court dismissed the objections based on urgency on the following grounds.

“[16] The respondents dispute the urgency of the application. They contend that Mr Manuel's fears of harm are based on mere anxiety that his reputation may be harmed and that he has not provided any evidence of such harm. The respondents argue that this case is an abuse of legal process, as it was brought to be heard on the day before the national elections by Mr Manuel,

² 2019 (5) SA 210 (GJ)

who is their political rival, in order to cause maximum damage to the respondents.

[17] *Mr Manuel is accused of grave allegations of corruption and nepotism. Allegations of dishonesty and immoral or dishonourable conduct are defamatory. There is no reason why Mr Manuel ought to submit himself to further indignities and assaults on his dignity before this matter can be determined. Dignity is not only a value fundamental to the Constitution, but it is also a justiciable and enforceable right that must be respected and protected.*

[18] ...

[19] *In Safcor Forwarding (Johannesburg) (Pty) Ltd v National Transport Commission*³ Corbett JA held that:

‘... Naturally, it is for the Court to decide whether the matter is really one of urgency and whether the circumstances warrant a departure from the normal procedures. To hold otherwise would, in my view, make the Court the captive of the Rules. I prefer the view that the Rules exist for the Court, rather than the Court for the Rules.’

[20] *The respondents have been afforded ten days to prepare their answering affidavits, all the papers have been filed, and the matter is ripe for hearing. The respondents have not complained that the time frames in the notice of motion prejudiced them. The manner in which dignity is engaged in this matter renders the matter urgent. Having regard to the relevant factors and, in*

³ *Safcor Forwarding (Johannesburg) (Pty) Ltd v National Transport Commission* 192 (3) SA 654 (A) at 675H

particular, the fact that it is in the public interest to urgently determine whether National Treasury conducted a corrupt and nepotistic appointment process of the new Commissioner of SARS, I am satisfied that Mr Manuel was justified in bringing this matter on a semi-urgent basis.”⁴

[39] The applicant argued that the facts in the **Manuel** matter are virtually identical to this application:

[39.1] The defamation in this case is based on the allegations of dishonesty against the applicant as was the case in the **Manuel** matter:

“There is no reason why [the applicant] ought to submit himself to further indignities and assaults on his dignity before this matter can be determined. Dignity is not only a value fundamental to the Constitution, but it is also justiciable and enforceable right that may be respected and protected.”⁵

[39.2] As in the **Manuel** case, there has been sufficient time afforded to the respondent to respond to the allegations:

“The respondents have not complained that the timeframes in the Notice of Motion prejudiced them.”⁶

[39.3] Dignity is engaged, and “the manner in which dignity is engaged

⁴ **Manuel v Economic Freedom Fighters and Others**, *supra* at paras 16-20

⁵ **Manuel v EFF** at para 17

⁶ **Manuel v EFF** at para 20

here renders the matter urgent".⁷

- [39.4] The applicant further argued that there is a public interest element, there is clearly urgency in deciding whether or not the Minister of Mineral, Energy and Resources was engaged in theft of public funds.
- [40] Furthermore, the applicant cannot obtain relief in due course, by instituting action proceedings. The Supreme Court of Appeal in ***Economic Freedom Fighters v Manuel***⁸ held the following:

"[89] In circumstances where the applicants were obdurate, and where the integrity of an institution of state was being undermined on the basis of Mr Manuel's alleged corrupt and nepotistic conduct, an award of damages, in due course, could hardly be said to be a viable and compelling alternative to an interdict prohibiting further publication. Mr Manuel satisfied the requirements for the final relief he had sought, which was granted by the court below. The applicants' reliance on this court's decision in Tau v Mashaba and Others is misplaced. That case concerned an application for interim relief, pending an 'action for defamation and damages'. The court below, in that case, before allowing for possible defences to be addressed, granted a declaratory order and an interdict in final terms. This court, predictably, set those orders aside. That case is far from the facts of the present application. In the present case, Mr Manuel satisfied the requirements for the declaratory and interdictory relief sought. Consequently, those orders are not liable to be set aside."

⁷ ***Manuel v EFF*** at para 20

⁸ 2021 (3) SA 425 (SCA)

[41] In **EFF v Manuel**, the SCA in regard to the use of urgent proceedings to seek interdictory relief held the following:

“[111] There is, of course, no problem with persons seeking an interdict, interim or final, against the publication of defamatory statements proceeding by way of motion proceedings, on an urgent basis, if necessary. If they satisfy the threshold requirements for that kind of order, they would obtain instant, though not necessarily complete, relief. There is precedent for this in the well-known case of Buthelezi v Poorter, where an interdict was granted urgently in relation to an egregious piece of character assassination. Notably, however, the question of damages was dealt with separately. In appropriate circumstances persons following this route might, as pointed out earlier, be required to overcome the barriers to prior restraints and have to deal with the availability of alternative measures, as a potential bar, to achieving redress. However, seeking damages, instantly, on application, is problematic for the reasons provided above. Counsel for the amicus, like counsel for Mr Manuel, did not provide a proper basis for departing from the established position of requiring evidence and did not propose how damages might otherwise, especially in opposed matters, be determined. In argument he indicated that if we held that a claim for damages could not be pursued on paper, we should nevertheless reiterate that an interdict, retraction and apology could be ordered.”

DEFAMATION

Meaning

[42] The requirements for defamation are trite. It requires a twofold enquiry.⁹ The first is to ask whether the meaning was defamatory and the second is to decide whether the meaning so attributed to the words *“is likely to injure the good esteem in which the plaintiff was held by the reasonable or average person to whom the statement was published”*. The meaning of the statement is determined objectively by the legal construct of the reasonable reader and is not a matter on which evidence may be led.¹⁰

[43] The applicant has identified four manifestations of the defamatory character of the statement. These are:

[43.1] That the applicant has received R40 million from the ERP Mine which was meant for the miners;

[43.2] That the applicant lacks integrity;

[43.3] That the applicant is not trustworthy;

[43.4] That the applicant does not uphold his oath of office.

[44] This meaning and its defamatory nature has not been denied in the answering affidavit. There can be no doubt that the effect of these statements would in the eyes of the reasonable reader diminish the esteem in which any person about whom they were made was held by

⁹ *Le Roux and Others v Dey (Freedom of Expression Institute and Restorative Justice Centre as amici curiae)* 2011 ZACC 4; 2011 (3) SA 274 (CC) (*Le Roux v Dey*) para 89

¹⁰ *Le Roux v Dey*, para 19

others in the community.¹¹ The applicant has argued that this is more so when that person is a Government Minister.

[45] Once the statement has been shown to be defamatory, it is presumed that the statement was published wrongfully and with the intent to injure¹²

[46] It accordingly falls upon the respondent to produce facts and evidence which would exclude wrongfulness and intention to injure.

DEFENCES

[47] The defences in law available to the respondent are truth and public benefit, absence of *animus iniuriandi* and fair comment.

Truth and public benefit

[48] From the answering affidavit it appears that the respondent is relying on this defence.

[49] Truth and public benefit would negate unlawfulness. However, the respondent relying on truth and public interest must plead and prove that the statement is substantially true and was published in the public interest.¹³

[50] In paragraph 3 of the answering affidavit, the respondent raised the defence of “*truthfulness of statement*”: *the statements made about Minister Mantashe’s involvement in the missing R40 million are true. The mine workers have provided affidavits, and I believe the Court should*

¹¹ **EFF v Manuel** at para 30, 35 and 36

¹² Ibid, para 36

¹³ **EFF v Manuel** at para 37

consider their testimonies". The "*affidavits*" do not support the respondent's version.

[50.1] The first document is an affidavit which was deposed to by Mr Leonardo Mano on 25 June 2025. It only states that he used to work for ERP Mine and that it has closed and he is still waiting for his money.

[50.2] The second document is not an affidavit. It appears to be a handwritten statement. It does not provide any evidence of the alleged monies having been paid to the applicant. The document also does not say that the applicant received R40 million from ERP Mine. It does not appear from the statement who the deponent or deponents to this statement is/are. There are signatures at the bottom of the statement, however the signatories are not identified on the document.

[51] The respondent has provided no evidence – he relies on what he was allegedly told. The respondent states that he will provide further evidence in Court to support his claims. The respondent requests this Court to investigate the matter. The applicant argued that it is not clear why the respondent did not furnish such evidence when he was called upon to do so or furnish such evidence together with his answering affidavit. The applicant further argued that this is an attempt by the respondent to secure evidence *post facto* to justify his false and defamatory statements. The applicant argues that the question still remains as to why the respondent is not reporting to the police so that the issue can be investigated.

[52] Apart from the alleged truth defence, the respondent does not provide any evidence that supports his statements which remain untrue and defamatory. No case is made out for the "*truthfulness of the statement*". The applicant argues that the respondent can hardly show the truth of the

statement, as on his own version, he was informed by other people.

[53] In the matter of **Tsedu v Lekota**,¹⁴ the Supreme Court of Appeal held that:

“The article purported to be a report of what had been said in a book that had been published some three years earlier. In the course of a radio interview about the article shortly after it had appeared, Tsedu remarked to the interviewer that if the respondents “have problems with [that was said in the book] they should take the author of the book to Court and not City Press.” It is evident from the remark that he was under the impression that a newspaper might publish defamatory statements with impunity if they have been originated by someone else. Well, journalists who keep Kelsey Stuart’s Newspaperman’s Guide to the Law¹⁵ by their side know that that is not so from the following passage:

*“[a] person who repeats or adopts and re-publishes a defamatory statement will be held to have published the statement. The writer of a letter published in a newspaper is prima facie liable for the publication of it but so are the editor, printer, publisher and proprietor. So too a person who publishes a defamatory rumour cannot escape liability on the ground that he passed it on only as a rumour, without endorsing it.”*¹⁶” (My emphasis)

[54] The respondent has not provided evidence that the alleged money was paid to the applicant but has relied on his subjective belief in their truthfulness. This is not a defence of truth. In the **Manuel** case the

¹⁴ (715/7) [2009] ZASCA 11 (17 March 2009)

¹⁵ 5 ed (1990) by Bell Dewar and Hall p 43

¹⁶ **Tsedu v Lekota**, para 4

following was held:

“[37] *The applicants made no attempt to establish that the defamatory statements about Mr Manuel were true. The furthest they went was to claim that they believed to be true what they had been told in a WhatsApp message by a whistle blower, whose identity they kept secret. There was no attempt to refute Mr Manuel's statements that he was not related to Mr Kieswetter and that they were neither business associates or companions. As those factual propositions were the foundation for the entire statement and its attack on Mr Manuel the failure to establish that they were substantially true was fatal to the defence. It was correctly rejected by the high court and not surprisingly it was not pursued in argument.”¹⁷ (Own Emphasis)*

[55] The applicant argued that there were also no supporting documents such as proof of payment or an affidavit from the officials of ERP Mine which clearly indicate that the applicant was paid such money.

[56] In the absence of supporting evidence and a failure to lay a criminal charge against the applicant, the statement remains untrue. There is accordingly no dispute of fact.¹⁸

Fair comment

[57] In order for a defence of fair comment to succeed, four elements must be proven. These are:

¹⁷ *EFF v Manuel* at para 37. Also see *Godongwana and Mthunzi Perry-Mason Mdwaba* (Unreported judgment of Dosio J), Gauteng Local Division delivered on the 26th of January 2024

¹⁸ *Godongwana and Mthunzi Perry-Mason Mdwaba* para 63

- [57.1] There must be a comment and not a statement of fact;
- [57.2] It must be a fair and honestly held opinion;
- [57.3] The facts on which it is based must be true, clearly stated and matters of public knowledge;
- [57.4] The comment must relate to a matter of public interest.¹⁹
- [58] No case is made out for fair comment in the answering affidavit and it is not available either as the statement is not a comment, but stated as a fact.

Animus iniuriandi

- [59] In **EFF v Manuel** several factors were taken into account to establish the intent to injure:

- [59.1] First was the failure to verify the information before the publication;

“[81] Viewing these facts from the perspective of a contention that the statement was published without the animus iniuriandi they fell woefully short of discharging the onus on that issue. It is clear that the EFF published the statement accusing Mr Manuel of nepotism and corruption on the basis of statements made by its source that it made no attempt to check. Even if it were given the same benefit that the conventional media are given in regard to non-

¹⁹ **Crawford v Albu** 1970 AD 102 at 115-117. **Godongwana v Mdwaba** *ibid* at para 65

*disclosure of their sources, that would not assist its case. The allegations it made were clearly defamatory and concerned a public figure given the responsibility of interviewing people and advising the President on the appointment of the Commissioner of SARS. That is a most serious allegation. To do so on the basis of a message of this type without any endeavour to confirm the truth of the allegations is inconsistent with the absence of an intention to injure. It demonstrates a willingness to wound irrespective of the truth of the allegations.*²⁰ (Own emphasis)

[59.2] In *casu* there is simply no evidence of any steps taken by the respondent to verify the information before publishing it.

[59.3] Secondly, with regards to the continuing publication after the letter of demand and application the SCA held:

“[82] The position was made worse in regard to the continuing publication of the statement after 27 March 2019 when Mr Manuel had said that the facts were false and demanded a retraction and its removal. He issued a statement demanding the production of evidence for three claims, namely, that there were 'blood ties' between him and Mr Kieswetter; that there were business relationships between them; and that he had previously appointed Mr Kieswetter as Deputy Commissioner of SARS. (The latter allegation was made in the statement but did not appear in the WhatsApp message.) Mr Malema's response on Twitter when a journalist drew

²⁰ *EFF v Manuel* *ibid* at para 81

this statement to his attention was: 'He can go to hell, we are not scared of him.' This attracted 396 retweets and 1460 likes.”

[59.4] The same applies in *casu*. After the 10th of June 2025 (letter of demand) and the 20th of June 2025 (urgent application) the respondent was not relenting.

[59.5] Finally, the fact that the matter was opposed²¹ is also illustrative of the intent to injure.²² The same applies in *casu*.

REQUIREMENTS FOR A FINAL INTERDICT

[60] The requirements for a final interdict are set out in the seminal case of ***Setlogelo v Setlogelo***,²³ as cited with approval in the matter of ***Pilane and Another v Pilane and Others***.²⁴ An applicant seeking such relief is requested to satisfy the Court of the existence of the following requirements for a final interdict, namely:

[60.1] A clear right;

[60.2] There must be an injury actually committed or reasonably apprehended;

[60.3] There must not be a similar protection available to the applicant by any ordinary means.

²¹ “*To the bitter end in the High Court*”

²² ***EFF v Manuel*** at para 84

²³ 1914 AD 221

²⁴ [2013] ZACC 3

- [61] The applicant has met the requirements for a final interdict.
- [62] The applicant has a clear right to protect his dignity and reputation, which he argues the respondent has infringed. Secondly, he has suffered and continues to suffer harm to his reputation, both in his personal and professional capacities, through the widespread dissemination of the impugned statement. The applicant has also received threats from certain sectors of the public arising directly from the allegations made by the respondent. The applicant has no alternative remedy to the persisting injury, as the respondent has refused to apologise or to take down the defamatory statements from his social media platforms.
- [63] The applicant has no alternative satisfactory remedy available to him.²⁵
- [64] If it is so that the allegations are false, then it is in the public interest that they should be addressed without delay. The opposite also applies, in that if the statements are true, they would significantly impact public confidence and the confidence of the markets generally in the office of the Minister.²⁶
- [65] This Court finds the applicant has passed the threshold for a final interdict.

THE QUESTION OF QUANTUM

- [66] The applicant seeks an amount of R500 000,00 in damages. In the matter of **EFF v Manuel**²⁷ the Supreme Court of Appeal stated that:

“... Claims for unliquidated damages by their very nature involve

²⁵ **EFF v Manuel** *ibid* para 89 and para 111. Also see **Godongwana v Mdwaba** *ibid* at para 85-87

²⁶ **Godongwana v Mdwaba** *ibid* at para 87

²⁷ *Ibid*

*a determination by the court of an amount that is just and reasonable in the light of a number of imponderable and incommensurable factors.*²⁸

- [67] Furthermore, in the matter of ***National Director of Public Prosecutions v Zuma***,²⁹ the Supreme Court of Appeal stated that motion proceedings are geared to deal with the resolution of common cause facts.³⁰
- [68] Illiquid claims by their very nature involve the resolution of factual issues.
- [69] As a result, motion proceedings are particularly unsuited to prosecution of claims for unliquidated damages, whether in relation to defamation or otherwise.³¹
- [70] Uniform Rule 18(10), *“enjoins any party claiming damages to provide sufficient information to enable the opposing party to know why the particular amounts being claimed as damages is in fact being claimed”*.³²
- [71] Relevant evidence needs to be presented and fully explored for a Court to determine an appropriate award.
- [72] A Court, in motion proceedings, in terms of Uniform Rule 6(5)(g), has a discretion to direct that oral evidence be heard on specified issues with a view to resolving a dispute of fact or, in appropriate circumstances, to order the matter to trial.

²⁸ Ibid, para 93

²⁹ ***National Director of Public Prosecutions v Zuma*** 2009 ZASCA 1; 2009 (2) SA 277 (SCA)

³⁰ Ibid, para 26

³¹ ***EFF v Manuel*** ibid para 105

³² ***Grindrod (Pty) Ltd v Delport and Others*** 1997 (1) SA 342 (W)

- [73] The quantum of damages and the reputational damages the applicant seeks, is not readily capable of determination on the papers. Accordingly, this Court refers the question of quantum to oral evidence.³³

THE REQUEST BY THE APPLICANT FOR A RETRACTION OF THE STATEMENT MADE

- [74] A retraction and an apology will help to secure redress for the applicant. However, the Supreme Court of Appeal in the matter of **EFF v Manuel**³⁴ stated that:

“... An apology has always weighed heavily in determining the quantum of damages in defamation cases as occurred in Le Roux v Dey.³⁵ In our view, whether an order for an apology should be made is inextricably bound up with the question of damages. As the latter award falls to be set aside and referred to oral evidence, so too must the order to publish a retraction and apology be set aside and referred to the high court for determination after the hearing of oral evidence on damages.”³⁶

- [75] Accordingly, the order for a publication of a retraction will be referred to oral evidence.

COSTS

- [76] The applicant in his Notice of Motion has requested the costs of the application to be awarded to him on a punitive scale (attorney client costs)

³³ **Godongwana v Mdwaba** *ibid* at para 97

³⁴ **EFF v Manuel** *ibid* at para 130

³⁵ **Le Roux and Others v Dey** (CCT 45/10) [2011] ZACC 4; 2011 (3) SA 274 (CC); 2011 (6) BCLR 577 (CC) (8 March 2011)

³⁶ **EFF v Manuel** at para 130

however in his draft Court order provided on two occasions the applicant has not dealt with the aspect of costs. As I have not heard the parties on costs, I will reserve the question of costs.

ORDER

[1] Accordingly, it is ordered that:

[1.1] It is declared that the allegations made by the respondent about the applicant on TikTok and other social media platforms, specifically that the applicant received R40 000 000.00 from a company called East Rand Proprietary Mines (*'ERPM Mine'*) which was meant for the miners, is false and defamatory.

[1.2] It is declared that the respondent's publications of the statements is unlawful.

[1.3] The respondent is interdicted from doing any interview or posting statements that say or imply that the applicant has received R 40 000 000.00 from the ERPM mine;

[1.4] It is declared that the respondent is liable to pay damages to the applicant;

[1.5] The quantification of those damages is referred to oral evidence.

[1.6] A retraction of the statements is referred to oral evidence.

[1.7] The costs of the urgent application are reserved.

Delivered: This judgment was prepared and authored by the Judges whose names are reflected and is handed down electronically by circulation to the Parties/their legal representatives by email and by uploading

it to the electronic file of this matter on CaseLines. The date for hand-down is deemed to be on 16 July 2025.

HEARD ON:	9 JULY 2025
DATE OF JUDGMENT:	16 July 2025
FOR APPLICANT:	Advocate P Managa E-mail: managalaw@gmail.com Madiba Motsai Masitenyane & Githiri Attorneys
INSTRUCTED BY:	E-mail: tumi@mmmgattorneys.co.za tshanda@mmmgattorneys.co.za
FOR RESPONDENT:	In person E-mail: landandminerals070@gmail.com