



**IN THE HIGH COURT OF SOUTH AFRICA
(GAUTENG DIVISION, JOHANNESBURG)**

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

NATURE

DATE: 27/25

CASE NO: 2025-091612

In the matter between: -

JALTECH AFRICA CAPITAL (PTY) LTD
(Reg No: 2015/006686/07)

First Applicant

**JALTECH SP 1 PARTNERSHIP EN
COMMANDITE**

Second Applicant

**JALTECH SP SEPTEMBER 2023
PARTNERSHIP EN COMMANDITE**

Third Applicant

and

ALLEYROADS POWER (PTY) LTD
(Reg No: 2016/210715/07)

First Respondent

BLOCKPOWER (PTY) LTD

(Reg No: 2016/288505/07)

Second Respondent

BRIDGE CITY HOUSING CONSORTIUM (PTY) LTD

(Reg No: 2023/110305/07)

Third Respondent

SIVULA SOUTH AFRICA (PTY) LTD

(Reg No: 2023/095186/07)

Fourth Respondent

Neutral citation: Jaltech and Others v Alleyroad and Others [2025] ZAGPJHC

(2 July 2025)

Coram: Allen AJ

Heard: 1 July 2025

Delivered: This judgment was handed down electronically by circulation to the parties or their legal representatives by email, by uploading to the electronic file of this matter on Caselines, and by publication of the judgment to the South African Legal Information Institute. The date for hand-down is deemed to be 2 July 2025.

Summary: Urgent opposed application for relief to turn off and deactivate a power supply system - Applicant sells electricity to the first respondent who in turn sells electricity to the third respondent - Second respondent operates the system to be turned off for emergency repairs, normal maintenance - Interference with the safe operation of the system - Monies outstanding for electricity sold - Respondents interdicted from interfering or removing components from the system.

JUDGMENT

ALLEN AJ

INTRODUCTION

- [1] This is an urgent opposed application for relief to turn off and deactivate the 380 KWP Solar PV and 1000 KWP Battery Electricity Generating Storage and Supply System known as Chiawelo Phase 2 ("the System") situated at Chiawelo-Wasani Heights Apartment Block in Chiawelo, Soweto for emergency repairs and normal maintenance.
- [2] The fourth respondent be ordered to do all things necessary to give effect to the relief sought.
- [3] The respondents be interdicted and restrained from interfering with the System, removing components therefrom, taking any steps to turn it on and reactivate the System without the applicant's prior written consent and costs by those respondents opposing the application on the attorney and client scale.
- [4] Respondents two and four gave notice to abide and respondents one and three opposed the application. First respondent filed an answering affidavit, but not third respondent. Second respondent, notwithstanding the business relationship with applicant and its notice to abide, gave a confirmatory affidavit to first respondent.

THE FACTS

- [5] First applicant is the joint owner of the System and sells electricity generated therefrom to the first respondent who in turn sells electricity to the third respondent, the owner of the block of flats. The second respondent is the sub-contracted operator of the System in terms of an Operator Agreement.
- [6] It is common cause that the System has been interfered with. Mr. Sauer, for respondents, gave an expert report based on his observations from the outside only. Mr. Sauer is a Construction Health and Safety Manager and not an

engineer as provided for in the Master Power Purchase Agreement ("the Agreement") namely that the Independent Expert should be, depending on the expertise needed, be a chartered accountant, attorney / advocate or engineer. Mr. Sauer does not fall in the engineering category applicable and his report is therefore of no assistance.

- [7] It is common cause that the System has been interfered with, amongst other, the geyser bypass issue. Respondents also conceded that applicant needs access to the System to perform maintenance, monitoring and fault detection.
- [8] The applicant has not been paid and the amount of R663 479.90 was due as on 30 June 2024 which should be more by now due to non-payment.

URGENCY

- [9] Annexure "FA18" referred to applicant's expert report of Mr. Mathebula that the System should be deactivated to prevent irreparable losses and/or damage to the System. Applicant demanded that the System be deactivated by 9h00, Tuesday 17 June 2025 failing which an urgent application will be brought compelling Blockpower to do so. Blockpower did not adhere to the deadline hence this application. It is common cause that non-payment has been ongoing for an extended period of time. Respondents conceded urgency. I deem it not necessary to delve further into the events that culminated to the launching of this application and determine that the application is urgent.
- [10] The monetary issue, geyser bypass issue, the refusal to shut down the System and also the fact that it was shut down and started up and reactivated again renders this application urgent.

CLEAR RIGHT

- [11] Applicant has a clear right as applicant is the owner of the System in terms of

the Agreement and may shut down the System for maintenance, emergency repairs or interference with the safe operation thereof. Applicants are also prevented access to the System's settings in order to address the issues.

IRREPARABLE HARM

- [12] The report of Mr. Mathebula of the applicant, an Engineer, details his concerns around potential health and safety, accelerated degradation and faults on the System and not operating in accordance with its intended design or functionality. Components were also removed without approval. The shutdown of the System as proposed is necessary to prevent irreparable harm. In addition, the continuous use of the System without payment contributes to the financial losses of the applicant.
- [13] Clause 10.2.1.2 read with clause 2.1.21 of the Agreement makes provision for applicant to shut down the System for failure by first respondent to make payment of any amounts due to applicant. Clause 12.2.4 obliges first respondent to pay all amounts to applicant free of any withholding, deduction or set off.

NO ALTERNATIVE REMEDY

- [14] The Agreement between applicant and first respondent, clause 31, has a dispute resolution clause. It is common cause that there are disputes between the parties. First respondent, for instance, alleges that the System provides only 44 percent instead of the 95 to 98 percent and in annexure "D" declared a dispute with applicant and also disputes the amounts due to applicant.
- [15] Applicant's dispute is the geyser bypass issue, interference and maintenance of the System and non-payment. Clause 31 of the Agreement reads as follows: "31.1 for the avoidance of doubt, where the customer disputes any amount payable to the seller under or in terms of this agreement, the customer shall be required

to pay such amount to the seller first before referring the determination of the amount payable (or the dispute) for determination by an Independent Expert and shall be obliged to continue paying the seller all amounts due in terms of this agreement for the duration that any dispute exists”.

- [16] The Agreement makes provision for the steps to be taken once a dispute is declared and the appointment of an applicable Independent Expert being a chartered accountant, attorney / advocate or engineer depending on the type of dispute.
- [17] Clause 31.5.4.1.8 makes provision that the Independent Expert shall “make such award, including an award for specific performance, an interdict, damages or a penalty or to costs as he in his discretion might deem fit and appropriate”.
- [18] Clause 31.6 reads: “... the Independent Expert's determination shall be completed as quickly as possible after his appointment ... and the decision of the Independent Expert shall, save in the event of fraud or manifest error, be final and binding on the parties, and shall not be subject to an appeal or review.”
- [19] Clause 31.9 reads: “Nothing contained within this clause 31 shall preclude any party from obtaining interim relief on an urgent basis from a court of competent jurisdiction pending the decision of the Independent Expert.”
- [20] It is common cause that the dispute was not taken further in terms of this dispute resolution clause and the referral to arbitration is discretionary. First respondent, however, is obliged to continue to make payments pending the dispute resolution which the respondent has not done. There is also an Operator Agreement with Blackpower which has a similar dispute resolution clause set out in clause 21 thereof.
- [21] In the matter of *Eskom Holdings S.O.C. Limited v Masinga* **(1225/2018) [2019] ZASCA 98 (18 June 2019)** the SCA upheld Eskom's appeal and the order granted by the court a quo was set aside where a spoliation order was granted

after the disconnecting of an illegal connection to Masinga's immovable property.

[22] In the instant matter it is common cause that the System has been tampered with and bypassed which can only be specified to what extent after a detailed inspection which applicant is prevented from. It is also applicant's case that the System is not operating in accordance with its intended design or functionality as some components have been removed without approval. The System is worth over R20 000 000.00 and may be irreversibly destroyed. The System has not been maintained either.

[23] The requirements for a final interdict have been met namely a clear right, an injury actually committed or reasonably apprehended and the absence of any other satisfactory remedy to the applicant.¹

[24] Notwithstanding any dispute between the parties first respondent was to continue to make payment pending the outcome of disputes to be resolved in terms of the dispute resolution clause which the respondent has not done. I am inclined to make an order to deactivate and turn off the System to limit applicants' damages and the System be accessed to perform maintenance, fault detection and emergency repairs.²

ORDER

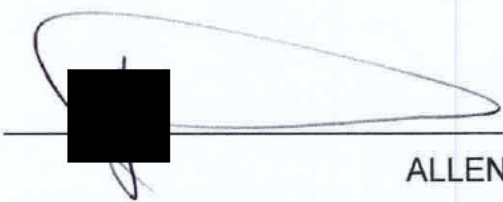
In the result I make the following order:

- 1 Dispensing with the forms and service provided for in the rules of the above Honourable Court and directing that the matter be heard as one of urgency in accordance with Rule 6 (12).

¹ *Setlogelo v Setlogelo* 1914 AD 221

² *Heroldt v Wills* 2013 (2) SA 530 (GSJ) at para 30 to 39

- 2 The applicants are hereby authorized to turn off and deactivate the 380 KWP Solar PV and 1000 KWP Battery Electricity Generating Storage and Supply System known as Chiawelo Phase 2 ("the System") situated at Chiawelo-Wasani Heights Apartment Block in Wasani Street, Chiawelo, Soweto ("the Apartment Block")
- 3 The fourth respondent is hereby ordered to do all things necessary to give effect to the relief sought in prayer 2 above.
- 4 The respondents are interdicted and restrained from:
 - 4.1 interfering with the System; and/or
 - 4.2 removing components from the System; and/or
 - 4.3 taking any steps to turn on and reactivate the System without the applicant's prior written consent.
- 5 The costs of the application shall be paid by first and third respondents on an attorney and client scale.


ALLEN AJ
ACTING JUDGE OF THE HIGH COURT,
GAUTENG DIVISION JOHANNESBURG

For the Applicants: Adv. JM Hoffman
Instructed by: LLGV Inc

For the Respondents: Adv. J Schoeman
Instructed by: Van der Walt Inc