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**REPUBLIC OF SOUTH AFRICA
IN THE HIGH COURT OF SOUTH AFRICA
GAUTENG DIVISION, PRETORIA**

Case Number: 060971/25

(1) REPORTABLE: NO

(2) OF INTEREST TO OTHER JUDGES: NO

(3) REVISED: NO

DATE 25 JULY 2025

SIGNATURE

In the matter between:

VALENTINE EZIHE

Applicant

and

MINISTER OF HOME AFFAIRS

First Respondent

DIRECTOR GENERAL OF HOME AFFAIRS

Second Respondent

JUDGMENT

MOGALE, AJ

Introduction

[1] This application was enrolled on the unopposed roll against the respondents. The applicant seeks an order compelling the respondents to issue the applicant with the outcome of the applicant's spousal permit application within a specified 30-day timeframe.

[2] This application relates to a spousal permit application lodged without any outcome from the respondents.

The Parties

[3] The Notice of Motion refers to Valentine Ezihe as the applicant. In contrast, the supporting affidavit states that Marshall Banda, an adult male residing in Centurion, Pretoria, and a Zimbabwean national holding a Zimbabwean passport with an unknown number, is the applicant.

[4] The first respondent is the Minister of Home Affairs, in the National Government, who is cited in his official capacity as a member of the National Executive in terms of Section 91(2) of the Constitution of the Republic of South Africa and has, as her chosen address where all legal documents and processes are served, the office of the State Attorney, SALU Building, 3[...] T[...] S[...] Street, Pretoria.

[5] The second respondent is the Director General of the Department of Home Affairs, cited in his official capacity, to the extent that he is responsible for administration, and has his principal place of work at the Hallmark Building, 2[...] J[...] R[...] Street, Pretoria.

Background

[6] On 27 June 2025, a Notice of Motion was served on both the first and second respondents, indicating that this application would be heard by this court on 17 July 2025.

[7] The applicant prayed that the court directs the respondents to issue a decision on the outcome of the applicant's spousal permit appeal application within thirty (30) days.

[8] According to the Notice of Motion, the affidavit of Valentine Ezihe would be used in support of the Notice of Motion.¹

[9] The supporting affidavit of Marshall Banda, purporting to be the first applicant, was deposited to and commissioned on 06 May 2025 in support of the Notice of Motion.²

[10] The supplementary affidavit of Valentine Ezihe, a Nigerian adult male national holding a Nigerian Passport, was deposited to and commissioned on 28 June 2025. The affidavit was submitted on Caselines.³

The facts

[11] The purported applicant, Marshall Banda, in his supporting affidavit, alleged that in October 2024, he applied to the respondents for a spousal permit. As proof of application, the applicant received a slip (Annexure SNH1) which would operate as an interim permit to enter and exit the Republic of South Africa.

[12] Annexure SNH1 is a slip issued by the South African Permit and Visa Facilitation Centre, dated 11 February 2025, for Valentine Derud Ezihe.

[13] According to the supporting affidavit, a period of two years has passed since the applicant submitted the spousal application, with no response or decision from the respondents.

¹ See Notice of Motion on Caselines 001-1.

² See Supporting Affidavit on Caselines 001-4 to 6.

³ At pages 001-9 to 11.

[14] The respondents are requested to issue the applicant with the outcome of his spousal visa appeal application within 30 days, in the absence of the respondents furnishing the applicant with an undertaking or warranty that they will permit him re-entry into the Republic of South Africa in the absence of a permanent and/or long-term permit, this circumstance will limit the applicant's freedom of movement.

[15] The supplementary affidavit of Valentine Ezihe, which supplements the supporting affidavit of Marshall Banda, was deposed to and commissioned on 28 June 2025 without prior leave of the court. The counsel representing the applicant, Ms. S. N. Hadebe, contended that there are no legal provisions requiring the parties to seek leave before supplementing their court submissions.

Issues to be determined

Before addressing the issues that require determination, it is necessary to first consider the matters that arose during oral argument and the evaluation of the application. In assessing the application, this Court must determine whether the relief sought complies with the law and whether it should be granted as a court order.

The applicable law

[16] Rule 6(5)(e) provides as follows:

“Within 10 days of the service upon the respondent of the affidavit and documents referred to in subparagraph (ii) of paragraph (d) of subrule (5), the applicant may deliver a replying affidavit. *The court may, in its discretion, permit the filing of further affidavits.*” (own emphasis)

[17] In motion proceedings, there are normally three sets of affidavits.⁴ It is within the court's discretion whether to permit the filing of further affidavits. In exercising this discretion, the court must keep in mind that a matter should be adjudicated on with all the facts relevant to the issue in dispute.⁵

⁴ *Standard Bank of SA Ltd v Sewpersadh and Another* 2005 (4) SA 148 (C) at 153G-H.

⁵ *South Peninsula Municipality v Evans and Others* 2001 (1) SA 271 (C) at 283A-H.

[18] Nevertheless, the decision to permit the filing of an additional affidavit remains within the court's discretion. A party seeking to do so must obtain leave from the court.⁶ If the affidavits are filed without leave from the court, the affidavits can be ignored.⁷

[19] I conclude that supplementing court papers without prior leave from the court is not allowed. Disregarding rules governing the filing of affidavits can result in the affidavit being struck from the record or the court refusing to consider it.

The application

[20] It appears to me that this application gives the inescapable impression that it was drafted as a result of a cut-and-paste process from a template⁸.

[21] Upon reviewing the court papers, the Notice of Motion indicates Valentine Ezihe as the applicant; furthermore, it states that his supporting affidavit will be filed in support of the Notice of Motion. To my surprise, the supporting affidavit of Marshall Banda, purportedly the first applicant, was filed. Subsequently, the supplementary affidavit of Valentine Ezihe and the Annexure SNH1 document, issued by the South African Permit and Visa Facilitation Centre, were submitted to supplement the application.

[22] Ms. Hadebe was fully aware that her court papers were not in order; she had already reviewed and prepared the application prior to appearing before this Court. Nonetheless, instead of seeking to rectify the papers, she sought to leverage the judicial process, given that the matter was unopposed, and requested that the relief be granted as an order of the court.

[23] Her professional responsibility and obligation to the court are to ensure that all filed documents are accurate and comply with procedural standards. Ms. Hadebe bears

⁶ *Hano Trading CC v JR 209 Investments (Pty) Ltd and Another* 2013 (1) SA 161 (SCA) at 165A-C.

⁷ *Standard Bank of SA* above n 5 at 153H-154J.

⁸ *Lembore and Others v Minister of Home Affairs and Others* 2024 (5) SA 251 (G) page 92-94

the duty to uphold professional integrity in her dealings with the client, the court, and in all professional interactions.

[24] Therefore, it is my view that the applicant has failed to make out a proper case for an order compelling the respondents to issue the outcome of the applicant's spousal permit application.

[25] In the circumstances, the following order is made:

1. The application is dismissed.

K J MOGALE
JUDGE OF THE HIGH COURT
GAUTENG DIVISION, PRETORIA

***Delivered:** This Judgment was prepared and authored by the Judge whose name is reflected and is handed down electronically by circulation to the parties/their legal representatives by email and uploading to the electronic file of this matter on CaseLines. The date for hand-down is deemed to be 25 July 2024.*

Date of hearing: 17 July 2025

Date of the judgment: 25 July 2025

Appearances

Counsel for the Applicant : Ms. TS Hadebe

Instructed by : Hadebe Attorneys

Counsel for the Respondents : No appearance