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

CASE NO.: 2025-117399

(1) REPORTABLE: NO

(2) OF INTEREST TO OTHER JUDGES: NO

(3) REVISED: NO

Date: 30 July 2025

E van der Schyff

In the *Ex Parte* application of
MASHAU SIGOGO

Applicant

In the matter between:
MASHAU MAGOGO

Applicant

and

ABSA BANK

First Respondent

LINDIWE MHLONGO N.O.

Second Respondent

MASTER OF THE HIGH COURT

Third Respondent

THE ACCOUNT HOLDER OF
ABSA ACCOUNT 9[...]

Fourth Respondent

THE ACCOUNT HOLDER OF
ABSA ACCOUNT 9[...]

Fifth Respondent

JUDGMENT

Introduction

- [1] This *ex parte* application was enrolled in the urgent court. Although the application was moved on an *ex parte* basis, five respondents were cited, to wit, ABSA Bank, Lindiwe Mhlongo in her capacity as the executrix of Estate Late M C Khumalo, the Master of the High Court, and two unknown entities that hold accounts with ABSA Bank. It is unequivocally stated in the founding affidavit that none of the respondents will be served with this application prior to its hearing.

- [2] The applicant seeks the preservation of all funds in the estate's bank account and the two identified accounts of the unidentified entities. Additionally, she seeks copies of the bank statements of the three bank accounts for the past year.

- [3] An applicant approaching the court for relief must establish that they have the necessary *locus standi* to seek the relief.

- [4] The applicant states that she is an adult female attorney. The applicant avers that Ms. Mhlongo has mandated her to assist her in the administration of the deceased estate. Ms. Mhlongo allegedly 'recently' communicated to her that the estate's bank account has been depleted of substantial amounts of money. The applicant obtained an order in this court directing ABSA to provide her with copies of the recent bank accounts, and she noticed that substantial amounts were paid out of the estate's bank account, among others, to the two unknown entities respectively cited as the fourth and fifth respondents. The applicant does not know where Ms. Mhlongo currently resides, as she is 'somewhere in the United States of America', and is no longer answering phone calls from her legal practice. Ms. Mhlongo has adopted a dismissive attitude towards her law firm when she attempts to communicate with her. The tone of the email communication attached to the founding affidavit is indicative of a strained relationship.

[5] The applicant avers that the relief sought in the notice of motion is intended to protect as much of the remaining money in the bank accounts as possible.

[6] The applicant does not aver in the founding papers that she has the necessary *locus standi* to approach the court. She does aver that she has a *prima facie* right to the relief sought, and if she succeeds in proving a *prima facie* right to the relief sought, it will follow that she has the necessary *locus standi*.

[7] The applicant avers as follows:

‘As the attorney which has been mandated with assisting the Executrix of the estate in question with the estate’s administration, I feel well within my rights to request the relief sought as my duty extends beyond any personal interest in the estate of the 2nd respondent. Firstly, there are other heirs to the estate and, secondly, I have a professional duty to see to it that the law is observed throughout the entirety of the administration of this estate.’

[8] It is evident from the founding affidavit that Ms. Mhlongo is the executrix of the deceased estate. She is also the person who opened the estate bank account and the only person, according to the applicant, who managed the account. By accepting the mandate to assist with the administration of the deceased estate, the applicant did not acquire any personal legal interest in the estate, much less a direct and substantial interest therein.¹ When a client gives a mandate to an attorney, it creates a principal-agent relationship. The attorney may be authorised to act on behalf of the client, but the rights and obligations concerned remain those of the client. The converse is also true: an attorney’s authority must come from the client, either expressly or by implication.

[9] I am alive thereto that the Special Power of attorney authorizes the applicant, among others, to open bank accounts in the name of the deceased estate. In this matter, for reasons not placed before the court, the executrix opened the bank accounts and not the applicant. In this regard, the applicant was thus not assisting

¹ See *Brauer v Cape Liquor Licensing Board* 1953 (3) SA 752 (C).

with the administration of the estate, except for specific instructions she received from the executrix.

[10] The applicant failed to make out a case that she has *locus standi*. As a result, the application stands to be dismissed.

ORDER

In the result, the following order is granted:

- 1. The application is dismissed.**

E van der Schyff
Judge of the High Court

For the applicant:

Mr. M. Mavunda

Instructed by:

Mavunda Attorneys

Date of the hearing:

29 July 2025

Date of judgment:

30 July 2025