



IN THE HIGH COURT OF SOUTH AFRICA
GAUTENG DIVISION, PRETORIA

(1) **REPORTABLE:**
(2) OF INTEREST TO OTHER JUDGES:
(3) REVISED:
(4) Signature: [Redacted] Date: 21/08/25

CASE NO.: 132866/25

In the matter between:

LOTSHA INVESTMENTS (PTY) LTD

Applicant

and

THE MINISTER OF MINERALS AND PETROLEUM RESOURCES First Respondent

THE DIRECTOR GENERAL: DEPARTMENT

OF MINERALS AND PETROLEUM RESOURCES

Second Respondent

MOTHEO AFRICA LOGISTICS (PTY) LTD

Third Respondent

THE MASTER OF THE HIGH COURT: PRETORIA

Fourth Respondent

JUDGMENT

Kumalo J

INTRODUCTION

- [1]. This is a reconsideration of the urgent order granted by my sister Amien AJ on 14 August 2025 in terms of Rule 6(12)(c) of the Uniform Rules of Court.
- [2]. On 14 August 2025, the Court issued a *rule nisi* calling upon the Respondents to show cause on the 21st of October 2025 at 10h00 or soon thereafter as the matter may be heard why an order should not be made final that:-
- 2.1 The First and Second Respondents are interdicted from appointing the Third Respondent as the Quattro Scheme Administrator of the First Respondent.
- 2.2 If the First and Second Respondents have already appointed the Third Respondent as the Quattro Scheme Administrator, such appointment and confirmation are interdicted pending the review application, which the Applicant would launch within 90 days from the date of the order.
- [3]. The Respondents were further interdicted from implementing the decision of the Quattro Scheme Administrator tender to award the tender to the Third Respondent.
- [4]. The Applicant had approached the Court on an *ex parte* basis.

- [5]. On 19 August 2025, the Third Respondent gave notice of its intention to seek an order on 20 August 2025 at 11h30 to reconsider and set aside the urgent order granted by Amien AJ, alternatively that it be discharged.
- [6]. The Applicant opposed the application and raised various issues. Firstly, the Applicant sought to rely on the provisions of Rule 6(8) referred to in paragraph 4 above and alleged that it only received the Third Respondent's papers after 13h00 on 19 August 2025. However, this allegation is incorrect.
- [7]. When the matter was called for a hearing in Court on 20 August 2025, shortly after 12:00, the Applicant's attorney of record indicated to this Court that their offices had technical problems and could not access the documents which were sent to their offices electronically at 11:36.
- [8]. It is so that Rule 6(8) provides that any person against whom an order is granted *ex parte* may anticipate the return date upon delivery of not less than twenty-four hours' notice. However, in this instance, the difference is only a matter of 6 minutes, and in any event, the matter was only heard at 14h00 on 20 August 2025. The Applicant cannot be heard to state that it suffered any prejudice in this regard. In any event, I am of the view that it suffered no prejudice in this regard, and Applicant could not point to any other than to rely on the technicality of the period stipulated in the Rule.

- [9]. Even if this Court may be wrong in this regard, Rule 6(12)(c) makes provision for any person against whom an order was granted in such person's absence in an urgent application, such person may, by notice, set down the matter for reconsideration of the order. No time is stipulated in this regard.
- [10]. The Applicant further took various points *in limine*, which this Court is of the view are without merit in the circumstances. The first point related to the alleged non-joinder of certain parties that have a material and direct interest in the matter. This referred to the members of the Quattro Scheme who are the beneficiaries thereof. I believe their interest relates more to the logistics of their export rather than the appointment of the Administrator. They are not involved in the appointment of the administrator.
- [11]. The second point raised *in limine* is the issue relating to the gender of the deponent in the Third Respondent's affidavit. The commissioner in the declaration did not specify the gender of either of them. The Applicant submitted that this suggested that the affidavit was not commissioned before the Commissioner, as such, the Commissioner would know to select a specific gender and complete accordingly.

- [12]. It was further suggested that the Court cannot know which gender the deponent is, even though she claims to be female and as such, the application is fatally defective.
- [13]. I am unable to agree with the Applicant's submissions in this regard. The deponent stated in paragraph 1 that she is an adult female and a director of the Third Respondent. I have no reason to doubt, and the Applicant does not dispute the same. Further, I am of the view that the omission of the Commissioner is not fatally defective and can be condoned in the circumstances.
- [14]. The last point *in limine* challenges the Third Respondent's *locus standi*, arguing that the impugned order was issued against the First and Second Respondents, and there was no order against the Third Respondent.
- [15]. As at the date of the order of Amien AJ, the Third Respondent was already appointed the Quattro Scheme Administrator, and the order obtained sought to interdict its appointment. The Third Respondent has a direct, material and substantial interest in the matter. The Applicant recognised the same and cited the Third Respondent in its papers and stated that it is cited as a party with a material interest in the matter.
- [16]. It was therefore baffling that the Applicant would raise a point *in limine* that the Third Respondent does not have *locus standi* to bring the application for the

reconsideration of the order of Amien AJ. The Applicant sought to rely on the fact that there was no evidence that the Third Respondent's appointment was served on them. This does not take the matter any further. The Applicant knew of the appointment when it approached the Court, and hence it was cited in its papers.

[17]. In any event, the First and Second Respondent filed their notices to oppose during the proceedings and advised the Court that they would not be filing any affidavits but aligned themselves with the position of the Third Respondent.

[18]. The urgent order of 14 August 2025 was obtained *ex parte* in the absence of the Respondents. The Applicant, for reasons known only to itself, chose not to serve its papers on all three Respondents.

[19]. I requested counsel for the Applicant at the commencement of his address to the Court to provide reasons for approaching the Court *ex parte*, and none were given. Instead, he sought to rely on the points *in limine* discussed above.

[20]. In matters of this nature, the Applicant was obliged to serve its papers on the Respondents to comply with the cardinal rule of *alteram partem*. There was no reason not to serve documents on the respondents, and this amounted to a failure of justice. The Respondents were unlawfully deprived of their right to be heard. For this reason alone, the Applicant's application ought to have been dismissed.

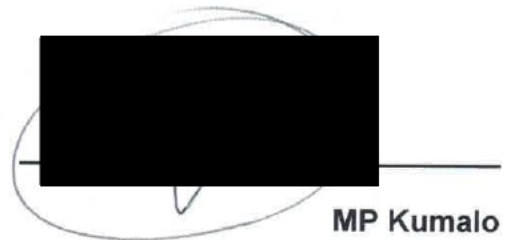
[21]. Further, it is trite that a party seeking interim relief must establish specific requirements, namely a prima facie right, a reasonable apprehension of irreparable harm, that the balance of convenience favours the granting of the order and lastly the absence of any satisfactory remedy.

[22]. On the facts pleaded by the Applicant in this matter, none of the above-stated requirements exists. The Applicant has failed to demonstrate any prima facie right. It has been unable to establish a reasonable apprehension of irreparable harm, the balance of convenience, or the lack of an alternative remedy.

[23]. In the circumstances, the following order is made:

1. The reconsideration of the urgent order granted by the Honourable Amien AJ on 14 August 2025 is heard as a matter of urgency, dispensing, insofar as needs be, with the forms, service and time limits provided for in the Uniform Rules of Court and disposing of this application at such time and place, in such manner and according to such procedures as the above Honourable Court may deem meet in terms of Rule 6(12) of the Uniform Rules of Court.
2. The order granted by Amien AJ on 14 August 2025 is reconsidered and set aside.
3. The Applicant's application is dismissed.

4. The Third Respondent's costs are to be paid by the Applicant on the scale "C", including the cost of two counsel.

A handwritten signature in dark ink, which appears to be 'MP Kumalo', is written over a large black rectangular redaction box. A horizontal line is drawn across the signature.

MP Kumalo

Judge of the High Court

Delivered: This judgment is handed down electronically by uploading it to the electronic file of this matter on CaseLines.

For the applicant: Adv V Vilakazi

Instructed by: Mathlhowana Attorneys Inc

For the first and second respondent: Mr SP Mathebula

Instructed by: State Attorney, Pretoria

For the third respondent: Adv D Mahon SC and Adv A Reyneke

Instructed by: Nupen Staude Vries Inc