

REPUBLIC OF SOUTH AFRICA



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

Case No: 004181/2025

Reportable: No

Of interest to other Judges: No

Revised: No

Date: 15 August 2025

SIGNATURE

In the ex parte application of:

MTHOKOZISI ALPHEUS SKOSANA

Applicant

(ID 9[...])

JUDGEMENT

MOOKI J

1 The application first came before the Court on 31 July 2025. The Court made the following order at the time:

1 The matter is postponed to 12 August 2025 to serve before Honourable Mr Justice Mooki.

2 The applicant is to serve the order on:

2.1 Mr Donald Phetla of Phetlha Attorneys.

2.2 Mr Nyaziwe Joseph Mnguni of NJ Mnguni Inc.

3 Each of Mr Phetla and Mr Mnguni are directed to file affidavits, indicating:

3.1 The content and scope of their discussions with the applicant, pertaining to this application;

3.2 Their signing of documents referred to in the application.

4 The applicant is to serve the whole record of the application on each of Mr Phetla and Mr Mnguni.

5 The affidavits referred to in paragraph 3 must be filed before 12 August 2025.

6 The applicant is to serve this order on the Legal Practice Council, Gauteng.

2 The order was necessitated by events that unfolded during the hearing on 31 July 2025. The applicant is a candidate legal practitioner, serving articles under Mr N J Mnguni of NG Mnguni Inc. He sought relief that he be permitted to join the periods for which he served his practical vocational training.

3 The first period is recorded as pertaining to the time when the applicant was under the supervision of Moraswe Attorneys. This period was to be joined with the period in which the applicant served articles at NJ Mnguni Attorneys Inc.

4 The notice of motion states that “the affidavits of Mthokozi Alpheus Skosana (the Applicant herein), Josephine Boitumelo Moraswa and Nyaziwe Joseph Mnguni (hereinafter referred to as the “Principal”) will be used in support of this application together with the annexures thereto.” The notice of motion is dated 9 January 2025, with “Phetla Attorneys Inc” as attorneys of record.

5 The applicant moved the application in person. The Court pointed out several aspects to the application and raised concerns with the applicant. The applicant

confirmed that the e-mail address and the mobile number associated with the address for the attorneys as shown on the notice of motion were his details. The applicant agreed that a person calling the mobile number would be entitled to believe that that number was of a lawyer at Phetla attorneys. The applicant informed the Court that he referenced Phetla Attorneys as the attorneys of record should an enquiry be raised. The applicant told the Court that Mr Phetla agreed to the use of his firm's address as attorneys of record.

6 The Court drew the applicant's attention to the confirmatory affidavit in the name of Mr Mnguni. The Court mentioned that the signature above Mr Mnguni's name appeared to differ from another document that was also said to have been signed by Mr Mnguni. The applicant informed the Court that Mr Mnguni did sign the confirmatory affidavit.

7 The Court, with further reference to the confirmatory affidavit in the name of Mr Mnguni, enquired why the document was commissioned in Kwa Mhlanga, Mpumalanga, when Mr Mnguni practised as an attorney in Pretoria. The applicant told the Court that Mr Mnguni signed the document and then gave the applicant the document. The applicant then took the document with him, and had the document commissioned at a police station in Kwa Mhlanga. The applicant agreed that Mr Mnguni did not appear before a commissioner of oaths.

8 Mr Mnguni and Mr Phetla prepared affidavits as directed in the court order. They also attended in Court when the matter was called on 12 August. Mr Masweneng appeared as counsel. Mr Masweneng informed the Court that the applicant was withdrawing his application. The Court indicated that it wished to be addressed on issues raised in the previous sitting.

9 Mr Phetla said the following in his affidavit. He shares office equipment with Mr Mnguni. Both Mr Mnguni and the applicant have access to Mr Phetla's office. Mr Phetla is aware that the applicant is serving articles under Mr Mnguni. The applicant told him that the applicant needed to join the previous articles with the current one; the applicant told him that the papers before court were in draft and should have

been referred to Mr Mnguni, his principal, for approval. Mr Phetla was unaware of the errors in the application. He also was unaware of the hearing date.

10 Mr Mnguni said the following in his affidavit. He is the applicant's principal. He shares office resources with Phetla Attorneys. The applicant has access to those resources. The applicant approached him with a draft document for an application in relation to the applicant's previous articles. He told the applicant that the application was unnecessary: the applicant had not completed his board exams and that the applicant could incorporate joining the period of articles in the application for admission. He was unaware of the application. The applicant did not give him the application for his review. The applicant instead received misguided legal advice that the applicant can approach the court in person and that Mr Mnguni's intervention was unnecessary. Mr Mnguni was unaware of the application. He apologised for the inconvenience and sought that the application be withdrawn.

11 The applicant deposed to confirmatory affidavit in relation to Mr Mnguni's affidavit. The applicant added that Mr Mnguni did not authorise the application and that the applicant received misguided legal opinion. He requested that the application be withdrawn.

12 The Court sought clarification on several points from each of Mr Phetla and Mr Mnguni.

13 Mr Phetla denied allowing his firm to be shown as the attorneys in the notice of motion. Mr Mnguni denied discussing or preparing a confirmatory affidavit in support of the application.

14 The import of the order by the Court, and the Court requesting the two attorneys to submit affidavits, is best illustrated by the exchange between the Court and the applicant on 31 July 2025. That exchange is reproduced below.

PROCEEDINGS HELD ON 31 JULY 2025 [11 : 58]

COURT: Mr Skhosana?

MR SKHOSANA: Yes, M' Lord.

COURT: Right. Which is your matter, Mr Skhosana?

MR SKHOSANA: Matter 97 on the roll.

COURT: 97 ?

MR SKHOSANA: Yes.

COURT: [Indistinct]. Right, are you the applicant?

MR SKHOSANA: Yes, M' Lord.

COURT: You are doing your own application?

MR SKHOSANA: Yes, M' Lord.

COURT: You, on the papers you are still serving articles?

MR SKHOSANA: Yes, M' Lord.

COURT: I see. There are a number of things that the Court needs clarification on. Mr Mnguni, is that your principal now?

MR SKHOSANA: Yes, M' Lord.

COURT: Where does he practice law?

MR SKHOSANA: [Indistinct] here in Pretoria central.

COURT: But then why was his affidavit [indistinct] in Kwa Mhlanga if his practice is in Pretoria?

MR SKHOSANA: Yes, he signed it , but I reside in Kwa Mhlanga, so I left with it from Kwa Mhlanga so went to commission it at the police station.

COURT: Ja, but when reading the [indistinct].

MR SKHOSANA: Yes, M' Lord.

COURT: [Indistinct] repeat what you just said to the Court?

MR SKHOSANA: He signed the document, we were together, the affidavit, the confirmatory affidavit, however I did not, we did not commission it , so I left with it and I went home with it then I , on the date it was commissioned I commissioned it at the Kwa Mhlanga Police Station without his presence.

COURT: [Indistinct] does not quite make sense to me [indistinct]. Right. Section 6 , page 29 , if you could go there.

MR SKHOSANA: Yes, M' Lord.

COURT: Just wait for the system to come up. Right, section 6 , page 29 .

MR SKHOSANA: Yes, M' Lord.

COURT: This i s put up as a confirmatory affidavit by Mr Mnguni?

MR SKHOSANA: Yes, M' Lord.

COURT: Now he says he practices from Pretoria.

MR SKHOSANA: Yes.

COURT: And then on page 32 , 6 , 32 , section 6 , page 32 .

MR SKHOSANA: Yes, M' Lord.

COURT: The document is signed.

MR SKHOSANA: Yes, M' Lord.

COURT: Who signed here?

MR SKHOSANA: Mr Mnguni himself.

COURT: The date reads that, it says here that this was done before me at Kwa Mhlanga on 14 January 2025 .

MR SKHOSANA: Yes, M' Lord.

COURT: But as I understood what you said not too long ago, in fact Mr Mnguni was not in Kwa Mhlanga, you took the document with you?

MR SKHOSANA : Yes, at the time when he signed I was still residing in Pretoria, he signed here in December, so I went with them home because I was still, at the time I was residing here in Pretoria, so he signed the documents, I left with them to Kwa Mhlanga. So when I was preparing the application, I took the documents and mine also to go and commission them at Kwa Mhlanga Police Station.

COURT: But it was not your, it is not your affidavit.

MR SKHOSANA: Correct, M' Lord.

COURT: [Indistinct].

MR SKHOSANA: Yes.

COURT: It is your principal's affidavit.

MR SKHOSANA: Correct, M' Lord.

COURT: Now based on what you are saying to the Court, it was not your principal who appeared before a commissioner of oaths.

MR SKHOSANA: Correct, M' Lord.

COURT: It was you.

MR SKHOSANA: Yes.

COURT: Well [indistinct] it was you, the fact it your principal was not ...
[intervenes]

MR SKHOSANA: Before the commissioner.

COURT: Before the commissioner of oaths.

MR SKHOSANA: Yes, M' Lord.

COURT: But why is that not mentioned to the Court?

MR SKHOSANA: At the time I did not think it was going to be problem, however now I see that it is a problem.

COURT: How could that not have been a problem?

MR SKHOSANA: Yes, M' Lord.

COURT: When as a person aspiring to enter the law you meet with Mr Mnguni.

MR SKHOSANA: Yes, M' Lord.

COURT: The document is prepared, you [indistinct] based on what you tell the Court, you then leave for Kwa Mhlanga and then have the document commissioned there.

MR SKHOSANA: Yes, M' Lord, that was that case.

COURT: That does not make sense to me because it is not your affidavit. Why would Mr Mnguni give you a document that on the face of it is his affidavit and give you that document for you to go and [indistinct] commissioner of oath? Why would he do that?

MR SKHOSANA: I, it would not, at the time I think that was not the intention of him giving that document and I think the mistake was my side.

COURT: That still does not make sense.

MR SKHOSANA: Correct, correct, M' Lord.

COURT: Why would you take a document that is in someone else' s name.

MR SKHOSANA: Yes, M' Lord.

COURT: Your principal on the face of it , you then go to, you leave Pretoria where there are a million and one attorneys.

MR SKHOSANA: Yes, M' Lord.

COURT: The document does get commissioned before the commissioner of oath in Pretoria and then it gets commissioned in ... [intervenes]

MR SKHOSANA: In another province.

COURT: Your submission to the Court, Nkomasi.

MR SKHOSANA: Kwa Mhlanga, M' Lord.

COURT: Kwa Mhlanga.

MR SKHOSANA: Yes, M' Lord.

COURT: That makes no sense to me.

MR SKHOSANA: Quite correct, M' Lord.

COURT: Now, why, you may have answered this, but I am still a bit unclear. So you are in Pretoria with Mr Mnguni.

MR SKHOSANA: Yes, M' Lord.

COURT: This document is prepared.

MR SKHOSANA: Yes, M' Lord.

COURT: He does not sign it .

MR SKHOSANA: He signed it .

COURT: He signs the document?

MR SKHOSANA: Yes, he signed the document. They were with other [indistinct] documents, so I gave him the documents, he signed them and then I took the documents back home and then I went to the commissioner, Kwa Mhlanga Police Station to have them commissioned.

COURT: So Mr Mnguni signed this document.

MR SKHOSANA: Yes, M' Lord, he signed it .

COURT: And he signed it in Pretoria.

MR SKHOSANA: Yes, M' Lord. Before I continue, M' Lord, is there, I just want some clarity, is it going to create a problem for Mr Mnguni?

COURT: Well you are moving the application. I am trying to understand your case.

MR SKHOSANA: Okay.

COURT: But you are telling the Court that Mr Mnguni signed this document?

MR SKHOSANA: Yes, he signed it .

COURT: He signed it in Pretoria.

MR SKHOSANA: Yes, M' Lord.

COURT: You then took the document and went to Kwa Mhlanga with the document?

MR SKHOSANA: Yes, M' Lord.

COURT: And then you with the document signed by Mr Mnguni got the commissioner of oaths to sign the document at the police station?

MR SKHOSANA: Yes, M' Lord.

COURT: And I just want you to keep to two parts of the document at the same time. I will tell you where to go just now. So on page 32, section 6, page 32, you are telling the Court that Mr Mnguni signed here?

MR SKHOSANA: Yes, M' Lord.

COURT: Okay. Then go to page 28. Are you there?

MR SKHOSANA: Yes, M' Lord.

COURT: As I understand this is the contract between you and Mr Mnguni?

MR SKHOSANA: Yes, M' Lord.

COURT: And Mr Mnguni was to be your principal?

MR SKHOSANA: Yes.

COURT: Now on page 28 there is a signature under principal.

MR SKHOSANA: Yes, M' Lord.

COURT: Is that Mr Mnguni's signature?

MR SKHOSANA: Yes, M' Lord.

COURT: This signature is not the same as the one on page 28, on page 32.

MR SKHOSANA: They are, for my, they are similar, M' Lord. Unless maybe because it is small, I do not know.

COURT: Alright. But you are telling this Court that Mr Mnguni signed on page 28?

MR SKHOSANA: Yes, M' Lord, he signed.

COURT: The application, was it served on the LPC?

MR SKHOSANA: Yes, there are LPC stamps.

COURT: Pardon?

MR SKHOSANA: Yes, the LPC stamped, I gave them the documents.

COURT: But on section 13, page 4, there is a stamp of the LPC. Is that what you are referring to as service on the LPC?

MR SKHOSANA: Yes, M' Lord.

COURT: Who are Phetla Attorneys?

MR SKHOSANA: I am using them for address, M' Lord.

COURT: Pardon?

MR SKHOSANA: I am only using them for the address.

COURT: I do not understand what is happening?

MR SKHOSANA: For the address in Pretoria, I am only using them for the address in Pretoria because, I mean I am residing in Kwa Mhlanga.

COURT: I do not understand what you mean by you only use Phetla Attorneys for an address in Pretoria. What does that mean?

MR SKHOSANA: At the time of doing the application I thought maybe it was going to be a problem that I am using my address from at him while the application is for Pretoria.

COURT: So the notice of motion would be issued in the hand as it were of an attorney?

MR SKHOSANA: Come again?

COURT: The notice of motion.

MR SKHOSANA: Yes, M' Lord.

COURT: Would be issued in the hand of an attorney?

MR SKHOSANA: What do you mean when you say issued in the hands of an attorney?

COURT: When one sees a notice of motion.

MR SKHOSANA: Yes, yes.

COURT: It will have on it an attorney, the name of an attorney with the address of the attorney.

MR SKHOSANA: Yes, M' Lord.

COURT: And that means that the person who is mentioned there is the attorney in the [indistinct].

MR SKHOSANA: Yes, correct, M' Lord.

COURT: Is that the case?

MR SKHOSANA: No.

COURT: So Phetla Attorneys are not attorneys of record?

MR SKHOSANA: No, no, they are not attorneys of record.

COURT: Then why did you report them suggesting that they are attorneys of record?

MR SKHOSANA: I thought, I wrote them in the matter of, like when we were doing, like when you are Pretoria but you want, you have a matter in Cape Town you will use a correspondent, I thought maybe it related to this application that I will use an address that is in Pretoria because the matter was in Pretoria.

COURT: Phetla Attorneys aware that they are mentioned in your application?

MR SKHOSANA: Yes, M' Lord, they are very much aware.

COURT: They are aware?

MR SKHOSANA: Yes.

COURT: Who at Phetla Attorneys did you discuss this arrangement with?

MR SKHOSANA: The director himself, Mr Donald Phetla.

COURT: What did you discuss with Mr Phetla insofar as his firm's address being mentioned in the notice of motion, what did you discuss?

MR SKHOSANA: It was only the issue of address that I am going to use his address that in the event that the LPC wants to send me something, because his office is in Pretoria they can direct it to his offices.

COURT: So are you telling this Court that you had a discussion with Mr Phetla.

MR SKHOSANA: Yes, M' Lord.

COURT: And that the two of you agreed.

MR SKHOSANA: Yes.

COURT: That you will use his firm's address as the address to use should the need arise by the LPC?

MR SKHOSANA: Yes, for, in the event of exchanging documents.

COURT: Correct.

MR SKHOSANA: Yes.

COURT: So that was agreed between you and Mr Phetla.

MR SKHOSANA: Yes.

COURT: Is that what you are telling the Court?

MR SKHOSANA: Yes, M' Lord.

COURT: The notice of motion, there is an e-mail that is mentioned under the section dealing with the address for the attorneys. That appears to be your Gmail e-mail address. So that is your personal e-mail address?

MR SKHOSANA: Yes, M' Lord. With the number phone underneath is also mine.

COURT: And the mobile number that is mentioned there, whose mobile number is that?

MR SKHOSANA: It is mine.

COURT: Your number?

MR SKHOSANA: Yes.

COURT: Now that being so, as far as the mobile number is concerned, you appreciate that, say for example if the LPC wanted to put a call through to that mobile number, the official at the LPC would take that number to be the telephone number at Phetla Attorneys.

MR SKHOSANA: No, mine.

COURT: But how would they know that it was your number and not the number at Phetla Attorneys?

MR SKHOSANA: As the applicant, I would say as the only person who is bringing the application before the Court by himself, I think ... [intervenes]

COURT: Yes, but the address.

MR SKHOSANA: Yes.

COURT: That is certified, it is not your address, is the address of the attorneys. So why would a person calling that number ... [intervenes]

MR SKHOSANA: Get to find me at the end line.

COURT: Put a call to that number and that the call would not be a call to Phetla Attorneys but to you, how would any person know that?

MR SKHOSANA: They would not know.

COURT: Please bear with me. Mr Skhosana, it is Skhosana?

MR SKHOSANA: Yes.

COURT: The Court is going to make the following order.

MR SKHOSANA: Okay.

COURT: One, the matter is postponed to 12 August 2025 to serve before Mr Justice Mooki. Two, the application is to serve the order on, 2.1 , Mr Donald Phetla of Phetla Attorneys, 2.2 , Mr [Indistinct] Joseph Mnguni of NJ Mnguni Incorporated. Three, each of Mr Phetla and Mr Mnguni are directed to file affidavits including indicating, 3.1 , the content and scope of their discussions with the applicant pertaining to this application, 3.2 , their signing of documents referred to in the application. Four, the applicant is to serve the whole record of the application on each of Mr Phetla and Mr Mnguni. Five, the affidavits referred to in paragraph 3 must be filed before 12 August 2025 . Six, the application is to serve this order on the LPC Gauteng. That is the order of the Court.

MR SKHOSANA: Okay. I do not quite follow to be honest. I understand you said the draft order that, sorry M' Lord, I was already frustrated.

COURT: I do not follow what you are saying ?

MR SKHOSANA: Yes, in terms of the judgment that you read into record.

COURT: The order, yes.

MR SKHOSANA: Yes. I did not follow it .

COURT: It has been read into the record.

MR SKHOSANA: Okay.

COURT: You asked for the order to be [indistinct] for you. It is absolutely crucial that the order be complied with.

MR SKHOSANA: Yes, M' Lord.

COURT: Because this matter is going to come back to court and it will come back to me.

MR SKHOSANA: Yes, M' Lord.

COURT: Just give me a second. Yes, you will speak with my clerk after the Court has adjourned and she will explain to you how the order will be made available on [indistinct] see to it that [indistinct]. That is the order [indistinct].

MR SKHOSANA: Noted, M' Lord.

MATTER POSTPONED TO 12 AUGUST 2025

COURT ADJOURNS:

[12:32]

15 The applicant misrepresented facts to the Court on 31 August 2025. Mr Phetla did not agree to his firm being reflected in the notice of motion as the applicant's attorneys. He did not discuss the application with the applicant. Mr Mngudi did not sign a confirmatory affidavit. The applicant, in moving the application, was prepared to have the court accept Mr Mnguni having deposed to a confirmatory affidavit. It was only on the questioning by the Court that Mr Skosana admitted that Mr Mnguni did not depose to a confirmatory affidavit. The applicant was adamant that Mr Mnguni signed the document.

16 The applicant is serving articles, with a view to becoming an attorney. "The attorney's profession is an honourable profession, which demands complete honesty

and integrity from its members.”¹ The applicant knowingly misrepresented facts to the Court. He now seeks to withdraw his application. The withdrawal is sought only because he has been exposed for having sought to mislead the Court.

17 I make the following order:

- (1) The application is dismissed.
- (2) The Registrar is directed to bring this judgement to the attention of the Legal Practice Council, Gauteng, for the council to consider such steps as are required of the council given the findings made by the Court.

O MOOKI
JUDGE OF THE HIGH COURT
GAUTENG DIVISION, PRETORIA

Appearance:

On behalf of the applicant: M Masweneng

Instructed by: Phetla Attorneys and NM Mnguni Inc.

Date of Hearing: 31 July 2025, 12 August 2025

Date of Judgement: 15 August 2025

¹ *Summerley v Law Society of the Northern Provinces* 2006 (5) SA 613 (SCA), para 23