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

Case number: **130762/2025**

(1) Reportable: No

(2) OF interest to other Judges: NO

(3) Revised: No

DATE 04 September 2025

SIGNATURE

In the matter between:

LERATO UNIVERSE NTULI

Applicant

And

BRADLEY BRAZINGTON N.O.

First Respondent

(In his capacity as the executor of the Estate
Number:021501/2015)

**BRAZINGTON SHEPERSON & McCONNEL
ATTORNEYS**

Second Respondent

MASTER OF THE HIGH COURT

Third Respondent

JUDGMENT

LESO AJ,

INTRODUCTION

1. The applicant owes the University an amount of R 90 000.00 (Ninety Thousand Rands) after she lost the bursary funding. She had to pay the

outstanding amount as of July 2025 so that she could proceed with her academic programme. Consequently, the applicant had brought an urgent application seeking the orders as follows:

1. Condonation for non-compliance with the rules of the court concerning the forms, service and time periods;
2. An order that the first and the second respondent pay an amount of R90 000.00 into Regenesys Education Pty Ltd, Branch Code No 1[...], Account No...and send the applicant proof of payment within 7 days of the day of the order.
3. A mandamus compelling the first and second respondents to account to the applicant within 7 (Seven) days from the date of the court order.
4. An order compelling the first and second respondents to provide the applicant with Trust details and the Trust assets within a period of 7(Seven) days from the date of the court order.
5. An order compelling the first and second respondents to provide the applicant with a liquidation and distribution account within a period of 7(Seven) days from the date of the court order.
6. An order compelling the respondent to provide the applicant with the investment details of Road Accident Fund pay-out, including the bank statement of the investment since 2007 pay-out within 7(Seven) days of this court order.
7. That the first respondent be interdicted from refusing to account to the applicant, Tshepo James Masumbuka, with ID no. 9[...] and Keamogetswe Celine More with ID No. 0[...].

8. An order that the applicant be authorized to approach this court on an urgency basis using the same papers if the first and second respondents fail to comply with the court order.
9. Cost to be the cost of the estate, alternatively cost de *bonis propriis* if the application is opposed.

BACKGROUND

2. Before getting into the main dispute, it is apposite to mention that the counsel representing the applicant abandoned prayers 3, 4, 5, and 10 on the basis that the second respondent has complied by providing the information and the L and D account.
3. The grounds for urgency as traversed by the applicant were as follows:
 - 3.1 Since August 2025 the applicant realised that she was excluded from the university portal because of non-payment of the tuition fees.
 - 3.2 On 28 June 2025 the applicant was allowed to write exams and even though she owed the tuition fees.
33. The applicant prays that his matter be heard on an urgent basis because she cannot access her results and she cannot submit the assignments because she cannot access the university portal which enables her to participate in the university activities and since August 2025.
4. The first and second respondents opposed the applicant and sought the dismissal of the application on the basis that the application lacked urgency. Counsel argued that the applicant's ground for urgency is self-created because she has been aware that she owes the fees since 28 June 2025.

5. The court proceeded to deal with the urgency and found that the applicant made out a case for the court to dispense with the forms and the time frames for service in terms of the rules on the following basis;

5.1 Rule 6 (12) deals with the urgent applications and provides as follows:

(a) In urgent applications the court or a judge may dispense with the forms and service provided for in these Rules and may dispose of such matter at such time and place and in such manner and in accordance with such procedure (which shall as far as practicable be in terms of these Rules) as it deems fit.

6. The normal time frames provided for in the Uniform Rules of Court would require the applicant to give the respondent not less than 15 days' notice to file and serve the notice of opposition and the answering affidavit. A hearing in due course would likely only be possible in several weeks or even months. The applicant cannot obtain substantial redress in the normal course because she has been excluded from the portal already. Currently, the applicant is unable to participate in the activities of the university. Consequently, she will suffer more harm if the application is not heard on an urgent basis.

FACTS

7. The applicant must then make out a case that he is entitled to the relief of an interdict, the relief to compel the first and second respondents and other reliefs sought in terms of the notice of motion.
8. The applicant is the daughter of the late Sechaba Samson Motsoeneng, currently studying a LLB degree with Regenesys Law School and the first respondent is the testamentary executor in the deceased estate.
9. The deceased had two other children named Tshepo James Masumbuka and Keamogetswe Ceiline More. He was also survived by his mother, Martha Motsoeneng, and his siblings, who are also the beneficiaries of the deceased's estate in terms of the deceased's WILL.

10. The second respondent has not registered a trust for the benefit of the applicant and her siblings.

Applicants arguments

11. The applicant's counsel argued that the fact that a trust is not registered for the benefit of the applicant is not only unlawful, but is also harmful to the estate because the deceased made it clear that he wanted the estate to take care of the educational needs of the applicant. The first respondent has no right in law to decide otherwise.
12. That if the first respondent is not ordered to register the Testamentary Trust, the applicant's right to education will suffer irreparable harm. The fact that the first and second respondents refused to account to the applicant and Tshepo since 2018 by providing the applicant with the remittance advice from the RAF on the party and party costs paid, makes her apprehensive that the deceased's compensation is not invested as per the testamentary WILL. The fact that the capital investment is now reduced from R 180 000.00 to R 1000 000.00 justifies the applicant's apprehension that there will not be anything left to inherit.
13. The fact that the first and second respondents have now submitted some incomplete documents demonstrates that they concede that they were supposed to account and they are the cause of the litigation. The fact that there will be action or application to challenge the validity of the testamentary WILL and another application for an interdict to prohibit the first and second respondents from making further payments to the deceased sibling entitles the applicant to the remedies requested.
14. Counsel concluded by stating that the first payment can pay the amount because the first respondent already overpaid the applicant.

Respondents arguments

15. Counsel representing the first and second respondent argued as follows: on 4 August 2025 the first respondent provided the applicant's attorneys with proof of the receipt of payment from the Road Accident Fund and a copy of the most recent bank account statement of the call deposit account that was opened with Standard Bank. The First Liquidation and Distribution Account was provided to the Master as early as 7 November 2016⁷ and the applicant has not disputed or claimed against this First and Final Liquidation and Distribution Account. The applicant has failed or refused to first exhaust other remedies by approaching the Master.
16. Counsel further argued that with the stipulation that upon the death of any such beneficiary, the interest would accrue to the survivors, and that the heirs of the deceased would not be entitled to receive their share. Only upon the passing of all the deceased's mother and siblings would the capital be distributed equally amongst their children, including the deceased's minor children. Such shares would become payable only upon completion of tertiary education or attainment of the age of 25.
17. Counsel contended that the applicant has already received the R100 000.00 specifically bequeathed to her for tertiary education and wellbeing. The Respondents have complied with these provisions since 2007, and the applicant's attempt to override the clear terms of the WILL is impermissible. The application is, in any event, moot, as the date by which the applicant claims she required payment has already passed, and the relief now sought serves no purpose.
18. Lastly, that James Masombuka and Keamogetswe Celine More and other beneficiaries are not cited as parties to this application.

ANALYSIS OF EVIDENCE AND APPLICATION OF THE LAW

19. In this case, there is no dispute regarding the validity of the WILL, nor was the court called to interpret the provision of the WILL. The position was confirmed

by the applicant counsel that the WILL will be challenged sometimes in the future. Therefore, reference to the provision of the WILL is necessitated by the fact that the applicant relied on the provision of the WILL dealing with the Road Accident Fund payment and the creation of a trust for the educational needs of the applicant.

20. The applicant cannot claim monies or payment of educational fees from the Road Accident Fund payment because the deceased's WILL expressly provided that, *'after a bequest of R100 000.00 to his children, the balance of the RAF funds received by him was to be invested in an interest-bearing account. The interest thereon was to be paid bi-monthly to his mother, Martha Motsoeneng, and to his siblings...'* the applicant has a vested claim to the estate, but only for the property legally bequeathed to him in the WILL, nothing extra. Consequently, the counsel's submission that the first respondent once overpaid the applicant and that overpayment can be done for the purpose of paying her tuition fees is totally flawed.
21. The rest of the averments relating to the other beneficiaries also cannot stand because none of the beneficiaries and heirs have been cited or joined to this application, and the relief sought greatly impacts their inheritance. There is no basis for the applicant to seek an order in favour of her siblings because they have not confirmed that she is authorised to act on their behalf. In any event, the applicant must still make out a case for the relief of an interdict she seeks against the first and second respondent.
22. The applicant is claiming funds over and above her entitled inheritance; this is unlawful because it amounts to enrichment.
23. It appears from the applicant's founding affidavit that her main complaint relates to her dissatisfaction about the administration of the estate and the fact that the deceased left some inheritance to his uncles and aunts. The applicant definitely chose the wrong platform and the inopportune moment to address her complaints.

24. The reliefs sought by the applicant are incompetent and must ALL fail.

COSTS

31. In determining the award for costs and the appropriate scale, I have had regard to the fact that both legal representatives sought costs. The applicant sought costs on the attorney-and-client scale or costs *de bonis propriis* together with counsel's fees on Scale A while the respondent counsel sought costs on party and party scale together with counsel's fees on Scale A. The general principle is that costs follow the result, as reaffirmed in *Biowatch Trust v Registrar, Genetic Resources and Others* where the Constitutional Court held that, in Constitutional litigation between a private party and the state, costs orders must be made in a manner that does not unduly discourage parties from approaching the courts. However, this principle does not shield litigants from punitive costs where their conduct is vexatious, reckless, or in flagrant disregard of court processes.
33. The applicant believed that she had a strong case for the respondent to answer and the first and second respondent exercised their rights by opposing the application.

AS A RESULT, THE FOLLOWING ORDER IS MADE:

ORDER

- 1] Application is dismissed.
- 2] The applicant is ordered to pay the costs on party and party scale, such costs to include counsel's fees on Scale A.

J T LESO

ACTING JUDGE OF THE HIGH COURT

This judgment is issued by the Judge whose name is reflected herein and is submitted electronically to the parties/their legal representatives by email.

Date of the hearing: 19 August 2025

Date of judgement: 04 September 2025

APPEARANCES

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