



**IN THE HIGH COURT OF SOUTH AFRICA, MPUMALANGA DIVISION,
(MBOMBELA MAIN SEAT)**

Case No.: 487/2020

DELETE WHICHEVER IS NOT APPLICABLE	
(1)	REPORTABLE: NO
(2)	OF INTEREST TO OTHER JUDGES: NO
(3)	REVISED YES/NO
	
<u>12 November 2025</u> DATE	<u>FOURIE AJ</u> SIGNATURE

In the application between:

SAMUEL MABOLE DHLAMINI

PLAINTIFF

and

MINISTER OF POLICE

RESPONDENT

JUDGMENT

FOURIE AJ

INTRODUCTION:

[1] The Plaintiff has instituted three distinct claims for damages against the Defendant in the following terms:

- [1.2.] Unlawful arrest
- [1.3.] Unlawful detention
- [1.4.] Unlawful assault

- [2] The Defendant defends all three claims.
- [3] The Plaintiff testified and called one witness, himself, to substantiate his claim, whilst the Defendant called two South African Police Service (SAPS) Officers who were allegedly present at the time and place of the incident.

COMMON CAUSE ISSUES:

- [4] The parties accept that the Plaintiff was arrested by members of the South African Police Service on 21 September 2019 in the vicinity of the Tonga Mall.
- [5] It is accepted that, sometime during the arrest, the Plaintiff was handcuffed on the scene.
- [6] It is common cause that the Plaintiff, whilst being handcuffed, ran away from the detaining officers, although the reason for the running away is contested.
- [7] It is accepted that the Plaintiff was again detained and brought to the Tonga SAPS Office.
- [8] It is accepted that the Plaintiff remained in custody until 23 September 2019, when he was brought to the Tonga Magistrates' Court, from which he was released.
- [9] Although not expressly addressed in the argument, the evidence presented to the Court indicates that the Plaintiff was arrested at approximately 22h00 on

21 September 2019 and was released from custody sometime during the day on 23 September 2019.

[10] The lawfulness of the arrest needs to be proven by the Defendant, an onus and burden of proof that rests on them, whilst the onus and burden in respect of the alleged assault rests on the Plaintiff.

[11] Correctly so, the sequence of evidence presented flowed firstly from the Defendant as it ought, and thereafter from the Plaintiff.

DEFENDANT'S CASE:

LUCIA MTIMKULU

[12] Sergeant Mtimkulu testified that at the time of the incident, she was part of a unit patrolling in the Tonga area. Whilst patrolling, they encountered one male standing drinking alcohol outside a stationary vehicle, which was at the time the only person consuming alcohol. She testified that the petrol vehicle stopped, indicating to the individual that it was an offence to drink in public, a statement which he understood and apologised for his actions. Upon requesting that the adult male accompany them to the SAPS Office to issue a ticket or fine, a person later identified as the Plaintiff approached the SAPS officials and stated that he was the brother of the person in question. According to Mtimkulu, the approaching person was aggressive, suggesting that he knew the law, whereas the SAPS Officers were not adequately trained and did not know it. Mtimkulu testified that she, together with her partner, one Mnisi, who has since left the employ of the SAPS, was holding the initial suspect, and the Plaintiff then attempted to pull the respective police officers away from the initial subject. Mtimkulu testified that the Plaintiff pushed Constable Mnisi, and Dhlamini overpowered him to the degree that Mnisi fell to the ground. At that stage, Mtimkulu utilised her radio to call for backup from other SAPS members in the area.

[13] The backup SAPS Officials arrived approximately 5 minutes after being called, including Sergeant Daphney Mashele – Sambo. Mtimkulu testified that chaos erupted during which the initial subject attempted to reprimand the Plaintiff. When the backup SAPS Officials arrived, Mtimkulu explained to Mashele what had happened, and Mashele approached the Plaintiff to ascertain his grievance. Mtimkulu testified that the Plaintiff told Mashele he was a classmate who went to school with Mashele, and that he would not listen to or be arrested by Mashele, as she was a woman and a classmate of his. Throughout the confrontation, the witness testified that the Plaintiff was extremely aggressive towards SAPS members. Mtimkulu then indicated to the Plaintiff that he would be arrested for obstructing SAPS officials in the execution of their duties. Mtimkulu testified that during the chaos, the initial suspect ran away, and the Plaintiff was handcuffed. When the SAPS van, which was to transport the Plaintiff to the SAPS station, was opened, the Plaintiff ran away whilst still handcuffed. After running, the witness testified he fell approximately 75% of the way across a soccer field. As a result of the fall, Mtimkulu sustained minor injuries, including scrapes on his chin, and his clothes were dirty with mud. After being detained again, the Plaintiff was taken to the SAPS Police Station to be charged. Mtimkulu indicated that when the Plaintiff was handcuffed, his constitutional rights were advanced to him. Mtimkulu persisted, even under cross-examination, that any injuries sustained by the Plaintiff were suffered as a result of the running away and falling of the Plaintiff, and that no assault was admitted. Accordingly to Mtimkulu, the arresting officers asked the Plaintiff whether he was injured and wanted to be taken to a hospital. He indicated that he did not need such. Mtimkulu testified that the amount of force utilised to restrain the Plaintiff was not excessive and did not reach a state that necessitated physical assault or the use of pepper spray.

DAPHNEY MASHELE – SAMBO

- [14] Sergeant Mashele testified that she had served as a Sergeant in the SAPS for approximately 19 years. Mashele testified that she was radioed to assist other SAPS members regarding a person who was fighting with them, and that she was told the SAPS members were trying to issue a ticket to someone when an external person intervened. When Mashele arrived at the scene, she found Mnisi on the ground. When enquiring from the person later identified as the Plaintiff what the matter was, the Plaintiff said that he knew Mashele, as they had been to school together, but that Mashele would not arrest him, as she was a woman. During this altercation, Mashele stated that the Plaintiff was pointing fingers at her in a threatening and aggressive manner. To restrain the Plaintiff, Mashele indicated that the Plaintiff was handcuffed, and after being handcuffed, the Plaintiff ran away. In the Plaintiff's attempts to run away, the Plaintiff fell a distance away from the scene between stones and reeds. Mashele indicated that several civilians and SAPS members were at the scene of the incident. Mashele indicated that the sole reason the Plaintiff was arrested was his interference with SAPS members in the performance of their duties. Mashele noticed minor injuries, such as scratches on the Plaintiff, at the time when he was ultimately detained. Mashele persisted during cross-examination that the Plaintiff was never assaulted. Mashele indicated that the SAPS officials asked the Plaintiff whether he wanted to attend a hospital, but he refused.
- [15] Both the Defendant's witnesses were cross-examined at length but steadfastly stood by their ground. The evidence of the respective SAPS Officials corroborates one another, and in general, they made a good impression on the Court.
- [16] The general impression from the evidence led by the Defendant was that the Defendants were in the process of exercising their duties when the Plaintiff intervened, which led to an altercation between the Plaintiff and the SAPS Officials, resulting in the Plaintiff's ultimate arrest.

PLAINTIFF'S CASE:

- [17] The Plaintiff testified on his own behalf. The Plaintiff testified that he was married with five children and that he had a secondary education. The Plaintiff testified that he had previously had a great deal of respect for the SAPS but had lost his confidence in it following the events that unfolded.
- [18] The Plaintiff testified that, before the incident, he was released on pension due to ill health. With respect to the incident, the Plaintiff testified that he was in his vehicle with one Thabiso and one Chris, and that he was sitting in the driver's seat, while the other male individuals were sitting on the back of the boot on the outside of the vehicle. The Plaintiff was approached by Police Officials who knocked on his window and asked to speak with him after alighting from his vehicle. The Plaintiff testified that he was informed that the other individuals were consuming alcohol, to which he responded that they do not consume alcohol and that they do not have money to buy alcohol. The Plaintiff was informed that the SAPS members were arresting the other individuals. The submissions by the SAPS Officials led to the Plaintiff intervening by stating that they should not arrest the other males, whom the Plaintiff referred to as "boys", and that they should instead take them to the hospital to be tested for alcohol consumption. It was the Plaintiff's case that, during his initial approach, Daphney Mashele was already at the scene, and he approached her because he knew her as a classmate at school. The Plaintiff throughout maintained that he was not aggressive towards the SAPS members and that he merely felt it his duty to intervene by providing advice to the SAPS members. It was the Plaintiff's case that, after backup was called, there were six SAPS Officials at the scene. The Plaintiff indicated that he cooperated fully with the SAPS members at all times, was never confrontational, and voluntarily extended his left hand for cuffing. The Plaintiff testified that Daphney Mashele then took out her firearm approximately five meters away from him, to which he enquired why she was taking out her firearm and on which statutory provision she was so doing. The Plaintiff testified that Mashele then told him not to be concerned about her actions, as the Plaintiff is not a Police Officer. The Plaintiff indicated that he would take

further steps if Mashele continued as she was. The Plaintiff testified that he requested his rights to be read, which led to Daphney Mashele discharging her firearm into the air. The discharge of the firearm scared the Plaintiff, leading him to bump his back against his own vehicle. The Plaintiff testified that the discharge of the firearm led to the other gentleman at the scene screaming and crying. The Plaintiff testified that he was thereafter pepper-sprayed by members of the SAPS, leading him to hand over his other hand to be cuffed appropriately. The Plaintiff testified that he felt a knock on his head and the back of his neck as if he was hit by an iron and deduced that he was hit by a firearm. As the Plaintiff was lying down, he testified that he was assaulted on his spinal cord. The Plaintiff testified that as a result of the assault, he attempted to run away, and after running approximately 20 - 25 meters, he was assaulted on the back and fell. During the second assault, the Plaintiff testified he heard another firearm being discharged, at which stage he was again detained and conveyed to the SAPS Office. The Plaintiff testified that he was bleeding an extreme amount at the time of being detained. The Plaintiff testified that on the day after his detention, he was taken to the hospital, where he was examined, and a J88 form was completed. The Plaintiff testified that he received medication at the hospital and that he was taken back to the SAPS holding cells, where he was provided with food. However, the food was not to his liking, and water was provided. Blankets were provided, though the cells were generally not very clean, and there was insufficient toilet paper.

- [19] The Plaintiff testified that he was arrested on a Saturday evening and then taken to Court on Monday morning, where the SAPS docket was not present, and the Plaintiff was released by the Magistrate who attended to him.
- [20] The Plaintiff testified that the incident affected his wife and children, as well as his standing in the community and at church, although he conceded that the church had forgiven him and that he was again reincorporated into their systems.

- [21] The Plaintiff believed his children's view of him was diminished following the incident. During cross-examination, the Plaintiff conceded that the other gentleman at the scene was a major and ought to have addressed the members of the SAPS themselves, but he felt he had an obligation to assist them. The Plaintiff persisted that he did not intend to prevent the members of the SAPS from executing their duties and merely sought to advise them on what ought to happen. The Plaintiff stated that he could not explain why backup Police Officials were needed, but conceded that, at some point, chaos erupted during the conflict between the parties.
- [22] According to the Plaintiff, the confrontation was merely verbal and not physical. When pressed on the subject, the Plaintiff conceded that the backup SAPS Officials were called due to the confrontation at the scene.
- [23] The testimony of the Plaintiff, specifically relating to the J88, was scrutinised as it became evident that the J88 form was only completed on 8 February 2021. The Plaintiff indicated that one Dr Nkosi indicated his willingness to testify in the matter, yet Dr Nkosi was not called. Upon being pressed on the subject, the Plaintiff conceded that some medical records might have been lost and that, upon his legal representatives' request, they needed to be reconstructed. The Plaintiff acknowledged that no assault case was ever opened against any member of the SAPS. The Plaintiff conceded that he underwent X-ray scans, which were not provided to the Court for evaluation. The Plaintiff was pressed on why a complete medical record was not presented to the Court, an aspect which the Plaintiff could not address.
- [24] After the Plaintiff's testimony, the Plaintiff's case was closed. The Plaintiff did not indicate why none of the gentlemen who were initially present during the incident were ultimately called to corroborate the Plaintiff's testimony, nor did the Plaintiff indicate why the testimony of Dr Nkosi was not secured when the matter was presented to the Court. No other evidence was presented to corroborate the Plaintiff's claims.

DISCUSSION:

[25] There is no dispute between the parties that the Plaintiff was indeed arrested by a peace officer, a member of the SAPS, without a warrant. The crux of the issue to be determined is whether the arrest was lawful, having regard to the circumstances of the case. To evaluate the question differently, the Court is to determine whether the Plaintiff's actions are in line with Section 40(j) of the Criminal Procedure Act, 51 of 1977.

[26] The relevant provisions state:

"40 Arrest by a peace officer without a warrant

- (1) A peace officer may, without a warrant, arrest any person-
- (a) who commits or attempts to commit any offence in his presence;
- (b) ...
- (j) who willfully obstructs him in the execution of his duty;
- (i) ...

[27] The further question is then also to evaluate whether the Plaintiff has proven that he was assaulted.

[28] In this matter, the court is faced with two mutually destructive versions of the parties. To assess which version is more probable, it is perhaps expedient to evaluate the evidence adduced in support of each party's case. Where the court is faced with two mutually destructive versions, the proper approach was restated in **Stellenbosch Farmers Winery Group Ltd and Another v Martell et Cie and Others**, 2003 (1) SA 11 (SCA) at 14J-15E, where Nienaber JA said:

"To come to a conclusion on the disputed issues a court must make findings on (a) the credibility of the various factual witnesses; (b) their reliability; and (c) the probabilities. As to (a), the court's finding on the credibility of a

particular witness will depend on its impression about the veracity of the witness. That in turn will depend on a variety of subsidiary factors, not necessarily in order of importance, such as (i) the witness' candour and demeanour in the witness-box, (ii) his bias, latent and blatant, (iii) internal contradictions in his evidence, (iv) external contradictions with what was pleaded or put on his behalf, or with established fact or with his own extracurial statements or actions, (v) the probability or improbability of particular aspects of his version, (vi) the calibre and cogency of his performance compared to that of other witnesses testifying about the same incident or events. As to (b), a witness' reliability will depend, apart from the factors mentioned under (a)(ii), (iv) and (v) above, on (i) the opportunities he had to experience or observe the event in question and (ii) the quality, integrity and independence of his recall thereof. As to (c), this necessitates an analysis and evaluation of the probability or improbability of each party's version on each of the disputed issues. In the light of its assessment of (a), (b) and (c), the court will then, as a final step, determine whether the party burdened with the onus of proof has succeeded in discharging it. The hard case, which will doubtless be the rare one, occurs when a court's credibility findings compel it in one direction and its evaluation of the general probabilities in another. The more convincing the former, the less convincing will be the latter. But when all factors are equipoised probabilities prevail.”

- [29.] In *National Employers' General Insurance Co Ltd v Jagers*, (Also reported on Saflii and Butterworths electronic search engine: [2002] ZASCA 98; [2002] JOL 10175 (SCA)), Eksteen AJP stated thus—

‘ . . . where there are two mutually destructive stories, [the plaintiff] can only succeed if he satisfies the Court on a preponderance of probabilities that his version is true and accurate and therefore acceptable, and that the other version advanced by the defendant is therefore false or mistaken and falls to be rejected. In deciding whether that evidence is true or not, the Court will weigh up and test the plaintiff's allegations against the general

probabilities. The estimate of the credibility of a witness will therefore be inextricably bound up with a consideration of the probabilities of the case and, if the balance of probabilities favours the plaintiff, then the Court will accept his version as being probably true. If however the probabilities are evenly balanced in the sense that they do not favour the plaintiff's case any more than they do the defendant's, the plaintiff can only succeed if the Court nevertheless believes him and is satisfied that his evidence is true and that the defendant's version is false."

- [29] Further to the aforesaid, it is essential that, when the matter is ultimately heard in Court, all the available evidence is presented to Court, and when a party is leading his evidence, the opposing parties, specifically during cross-examination, are obliged to put to the witness so much of the version as will be adduced by his own evidence. The rationale is simply that, in the absence of a litigant posing to a witness the case of his own client, the case of his own client would not be tested against that of the witness testifying, and that witness would ultimately not deal with that evidence.
- [30] In the current matter, I find it crucial to indicate that the respective parties did not call several critical witnesses.
- [31] I wish to highlight that specific crucial evidence was not presented to the Court and that certain essential statements were not put to the respective witnesses during cross-examination.
- [32] The Defendant failed to call one Mnisi, stating that he has since retired from the SAPS. I fail to see how Mnisi's retirement is sufficient to excuse his absence from the Court to lead evidence on his activities while he was still a member of the SAPS. The Defendant has not indicated what efforts were made to secure the evidence of Mnisi.
- [33] The Plaintiff failed to secure the evidence of at least the two crucial witnesses that, on their own version, were the cause of the initial interaction with the

SAPS, and which, on the Plaintiff's own version, were at least present when the initial assault and discharging of firearms occurred. The evidence from these two gentlemen could have easily corroborated the Plaintiff's statements.

- [34] The Plaintiff further failed to call any of the medical practitioners who evaluated the Plaintiff after the alleged incident and failed to adduce any substantiating proof on the injuries sustained and the *sequelae* thereof. No corroborating medical reports, expert opinions or source documents, such as X-rays, were provided to enable the Court to evaluate the alleged injuries of the Plaintiff and the seriousness thereof.
- [35] The fact that the only J88 report that was ultimately presented to the Court was a J88 which was compiled several years after the incident in question, and after the Summons was already issued with the disclaimer by the medical practitioner, indicating that the date of the J88 being completed, being 8 February 2021 as the date on which the Plaintiff was assessed leaves much to be desired.
- [36] The Court further finds the crucial omission by Adv Mashile, appearing on behalf of the Plaintiff, to put to any of the Defendant's witnesses the allegation that the SAPS Officials drew their firearms and discharged them on two separate occasions, to be crucial.
- [37] The excessiveness being portrayed in the Plaintiff's testimony about the force utilised and the intimidation of the discharging of a firearm and the *sequelae* thereafter was of such a crucial nature that, to refrain from leading any evidence on the same when the Defendant's witnesses were called is to be regarded as being inexcusable.
- [38] Further, the Plaintiff neglected to lead any evidence to substantiate its prayers in respect of emotional shock, loss of amenities of life, loss of general health, disfigurement or mutilation, and shortened life expectancy.

- [39] Insofar as it relates to allegations of pain, suffering and shock induced by bodily injury, as well as contumelia, the Plaintiff merely in passing referred to the injuries sustained and the effects thereof without substantiating the same with any amount of tangible and acceptable evidence.
- [40] Insofar as it relates to whether the arrest of the Plaintiff was lawful or not, and having regard to Section 40 of the Criminal Procedure Act, *supra*, it is common cause that the SAPS Officials were engaged in some action whereby they were in the process of issuing a fine of sorts to external parties, which led to the intervention by the Plaintiff. It is common cause that ultimately no fine was imposed on the initial persons who ran away from the scene of the incident during the commotion caused by the Plaintiff. It ought to be accepted accordingly that, had the Plaintiff not in some way engaged the SAPS Officials in the manner in which he so did, the SAPS Officials would have executed their duty and issued the fine or citation to the initial individuals.
- [41] Irrespective of the contradictory evidence presented by the parties, the Plaintiff's actions evidently obstructed SAPS members from performing their duties. Whether the fine or citation to be imposed on the initial individuals would have been fair or just is, for the purpose of the current consideration, irrelevant. The SAPS Officials intended to execute their duties in a particular manner, and the engagement by the Plaintiff, whether aggressive as stated by the Defendant or peaceful as stated by the Plaintiff, obstructed the execution of the SAPS members' endeavours.
- [42] As a result, the Court cannot find that the Plaintiff's arrest was unlawful.
- [43] Following the arrest, the Plaintiff was detained. The detention did not exceed the statutory time limit, and no evidence was presented to the Court indicating that the Plaintiff was not presented to the Magistrate's Court at the earliest available opportunity. The Plaintiff's release from custody was presented to the Court not for any reason other than the docket not being presented to the Magistrate when the matter was ultimately called. On the evidence presented to this Court, it can accordingly not be held that the Court that released the

Plaintiff did so under the belief that the Plaintiff was wrongfully and without reason arrested. Whilst the aforesaid might have been the case, the Plaintiff failed to adduce the necessary evidence to the Court to indicate that it was indeed so.

[44] During the hearing of the matter, the Court provisionally accepted Mnisi's statement and the J88 report, and I indicated that I would deal with them at a later stage to determine whether they would be accepted.

[45] The content of the affidavit by Mnisi in all aspects constitutes hearsay, and the Plaintiff had no means to cross-examine Mnisi or to test the version that he advanced. As such, to admit the affidavit would prejudice the Plaintiff and would not be just. The affidavit of Mnisi is accordingly refused, and no weight is given to it.

[46] Insofar as it relates to the J88 report, the J88 report was utilised by the Plaintiff for its testimonial value, being evidence of the truth of what it asserts, in that the Plaintiff wishes the Court to, as a result of certain statements on the J88, find that specific injuries were indeed sustained.

[47] The passage in **R v MILLER**, 1939 AD 106 at 119 is instructive in the matter at hand, where it stated that:

“Statements made by non-witnesses are not always hearsay. Whether or not they are hearsay depends upon the purpose for which they are tendered as evidence. If they are tendered for their testimonial value (i.e. as evidence of the truth of what they assert) they are hearsay and they are excluded because their truth depends upon the credit of the asserter which can only be tested by his appearance in the witness box. If, on the other hand, they are tended for their circumstantial value to prove something other than the truth of what is asserted, then they are admissible if what they are tended to prove is relevant to the enquiry.”

- [48] The existence of the J88, the manner in which it was completed and the statements therein made are all challenged by the Defendant. The purpose of utilising the J88 by the Plaintiff was to prove the existence of assault. The J88 is not supported by any source documents, such as x-rays or other medical records, and as such cannot be accepted. The J88, absent the testimony of the medical practitioner who compiled it, is to be regarded as hearsay, and is to be disregarded by this Court, and accordingly not accepted into evidence.
- [49] Other than the J88, the Plaintiff led no evidence on the injuries sustained. Initially the Plaintiff had a bundle of photographic evidence, none of which was presented to Court.
- [50] Even if the Court were to accept the version of the Plaintiff that he was assaulted, the nature and seriousness of the assault and the nature and severity of the injuries sustained have not been proven.
- [51] This Court is fortified in not accepting the J88 into evidence by the fact that significant discrepancies in as far as it relates to the J88 have been highlighted at the hearing of the matter and the fact that the Plaintiff on numerous occasions tendered that the medical practitioner that compiled the J88 was indeed available and tendered his evidence at trial, yet when the matter was brought to Court he was not called to testify which leaves the Court to only make an adverse inference from this fact.
- [52] Insofar as it relates to the allegations of unlawful assault, and having regard to the probabilities of the matter, it was the Plaintiff who had the onus of proof in respect of such a claim.
- [53] The Plaintiff's Particulars of Claim rely thereon that the Plaintiff was severely assaulted by members of the SAPS who were on duty, with fists, button (sic) and firearms resulting in severe bleeding, and the injuries relate to a chin laceration, spine and shoulder re-adjustment, and other related wounds.

Neither the Plaintiff's Particulars of Claim nor the questioning of the Defendant's witnesses made any mention of a pepper spray incident or the discharging of a firearm.

[54] In applying the relevant legal principles as already set out previously in this judgment, and absent the corroborating testimony which evidently was available to the Plaintiff and which the Plaintiff elected not to utilise, the Court cannot find that an unlawful assault indeed occurred. In coming to the conclusion above, not only was the necessary evidence not provided to substantiate the case for the Plaintiff, but it also raises the question of why a person such as the Plaintiff, who alleges being heavily assaulted, would not open a criminal charge against the alleged perpetrators.

[55] The case presented by the Plaintiff that he was sprayed with pepper spray, assaulted with weapons on his head until he fell and then further assaulted specifically on his spine to incapacitate him, do not align with a version that he was in that process of being assaulted by numerous SAPS officials and whilst being handcuffed, still able to stand up and run away for about 25 meters until being assaulted again. The extreme assault as portrayed by the Plaintiff and the manner in which he was able to evade, on his own version, six SAPS Officials whilst being handcuffed is not probable. The version as presented by the Defendant is that, whilst being detained, the Plaintiff, who at that stage was uninjured, ran away and ultimately stumbled and fell, causing minor injuries, which is, under the circumstances, far more probable.

[56] The Plaintiff has accordingly not succeeded in proving his case in this regard.

CONCLUSION:

[57] It flows from the aforesaid that none of the Plaintiff's claims can succeed, and they stand to be dismissed.

[58] Much is to be said about the manner in which the Plaintiff elected to present his case at Court.

[59] The Plaintiff and his legal representatives stood at the stern of their own ship and decided, for whatever reason, to steer their ship in the manner in which they so did. They did so at their own peril.

[60] I accordingly grant the following Order:

[60.1.] The Plaintiff's claim is dismissed.

[60.2.] The Plaintiff is ordered to pay the Defendant's costs.



H F FOURIE AJ
ACTING JUDGE OF HIGH COURT, MBOMBELA

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Judgment reserved on: 07 November 2025

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