

IN THE HIGH COURT OF SOUTH AFRICA
GAUTENG DIVISION, JOHANNESBURG

CASE NO: 25073/2021

DATE: 2025.10.20

DELETE WHICHEVER IS NOT APPLICABLE
(1) REPORTABLE: YES / NO
(2) OF INTEREST TO OTHER JUDGES: YES / NO
(3) REVISED

In the matter between

GUNDO WEALTH SOLUTIONS (PTY) LIMITED

and

ANOOSHKUMAR ROOPLAL N.O.

EX TEMPORE JUDGMENT

BLOU, AJ:

1. This matter came before me as an application for rescission, purportedly in terms of the Uniform Rule 31(2)(b), to rescind and set aside an order placing the applicant under winding-up. The applicant was represented by Mr Razwinane in person, the respondent being represented by counsel. Mr Razwinane, who claimed to be a director and a holder of half the shares

in the company or the joint holder with his wife of all the shares (the evidence is unclear) seeks to secure a postponement of the matter, the applicant's attorneys having withdrawn on 16 October 2025.

2. Although the applicant is the company in question, it is common cause from the papers that the applicant is in liquidation. As will appear below, an application for the present relief is required to be brought under section 354(1) of the Companies Act. This would be at the instance of the liquidator, member or creditor. The applicant cannot be the company itself.
3. This on its own would justify the dismissal of the application.
4. There are other reasons for that result.
5. I took Mr Razwinane through the applicant's papers, on the assumption that he was in fact, authorised to represent the applicant, and explained to him, with the assistance of counsel for the respondent, that the applicant, as named, being the company, enjoyed no standing to bring any application for rescission. Second, I explained to the parties that this is not a case where Rule 31(2)(b) finds application.
6. According to *Ward Another v Smit and Others (In re:*

Gurrv Zambia Airways Corporation Limited 1988 (3) SA 175 (SCA) it is not competent to “rescind” a winding-up order in terms of the Rules of Court or common law. An application under section 354(1) of the Companies Act is necessary. Moreover, an application under that provision requires more than just dealing with the requirements that would be applicable in an ordinary application to rescind a default judgment. What is required is a showing of exceptional circumstances, and this would include a full synopsis of the current position of the company, why it went into liquidation, and whether its affairs have been conducted with probity. Suffice to say that none of these matters have been traversed in the founding affidavit.

7. In the circumstances, I explained to Mr Razwinane that the current application was fatally defective in the respects set out above, and that there would be no point in ordering a postponement of the matter.
8. I advised him that if he was minded to obtain advice from new attorneys, he should bring this judgment to their attention. I also asked the respondent's attorneys to send this judgment by way of email to Mr Raziwane and to refer him to the main findings that I have made as set out above.

9. In the circumstances, I make the following order:

- a) The application made by the applicant (represented by Mr Raliam Razwinane) for a postponement of this application is dismissed with costs on scale A.
- b) The application for rescission dated 8 October 2024 is dismissed with costs on scale A.

BY ORDER

REGISTRAR