

IN THE HIGH COURT OF SOUTH AFRICA

GAUTENG LOCAL DIVISION, JOHANNESBURG

CASE NO: 193266/2025

DATE: 2025-10-20

In the matter between

10

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



SIGNATURE

DATE 20 October 2025

LEANDRE LLANELLY ELIZABETH THEYS

Applicant

and

MUSTAFA MAHOMED NO AND OTHERS

Respondents

J U D G M E N T *EX TEMPORE*

WILSON, J: On Friday 17 October 2025, I gave leave to enrol this application at 10am on Monday 20 October 2025. I did so because the applicant, Ms. Theys, claimed that the relief sought was so urgent that it could not wait for hearing on the ordinary urgent rolls of 21 or 28 October.

In her application Ms. Theys seeks the suspension of an inquiry currently taking place under Section 417 of the Companies Act 61 of 1973. Ms. Theys has been summoned to attend that inquiry during the week of 27 October 2025. Certain documents alleged to be in Ms. Theys' possession

have also been subpoenaed.

The application has been brought without providing any of the respondents notice. In her founding affidavit Ms. Theys appears to say that the reason she did not provide notice is that one of the respondent's attorneys made certain utterances over the phone to the effect that she, Ms. Theys, did not want to "end up like" an attorney who was apparently recently killed in connection with one of his cases. Ms. Theys interpreted this utterance as a threat, and
10 in her affidavit she says that this threat is so serious that her application should be heard *ex parte* and *in camera*.

On the facts before me, I think Ms. Theys has perhaps adopted a strained interpretation of what the attorney said to her. But I need not explore that issue further. At the hearing before me counsel for Ms. Theys did not advance the case that the attorney's alleged threat was the basis for the approach to court *ex parte*. He instead said that no notice has been given to the respondents because of the expedited timeframes set out in the notice of
20 motion.

That excuse for failure to give notice is plainly inadequate. The notice of motion was signed on 16 October, last Thursday. Counsel for Ms. Theys was unable to explain why the applicant could not have given the respondents notice of today's hearing on Friday, affording them the

weekend to respond.

When I questioned counsel on the threat Ms. Theys alleged in her founding papers, counsel clarified that Ms. Theys only fears for her safety if she is required to attend the section 417 inquiry in person next week. In other words, the threat Ms. Theys alleges in her founding papers could not, after all, have been the basis on which the application was brought *ex parte*. Ms. Theys was not present in court when this matter was argued. She need not have been
10 present had she given notice to the respondents that the relief she seeks today would be applied for.

It follows that there is no basis on which the application can be entertained *ex parte*. It is the practice of this court to dismiss applications brought *ex parte*, when notice should have been given. That does not of course preclude Ms. Theys from bringing a fresh application for the same relief on notice to the respondents.

The application is dismissed.

20



.....
WILSON, J
JUDGE OF THE HIGH COURT
20 October 2025