

REPUBLIC OF SOUTH AFRICA



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

Case Number: 2025-056196

(1) REPORTABLE: ~~YES~~ / NO
(2) OF INTEREST TO OTHER JUDGES: ~~YES~~ / NO
(3) REVISED: ~~YES~~ / NO

20/03/2026
DATE

[REDACTED]
SIGNATURE

In the matter between:

CHRISTINE VEENA GOVINDSAMY

Applicant

And

MAGISTRATE PETERS NO.

First Respondent

**MAGISTRATE NCUBE NO.
RANDBURG MAGISTRATES COURT**

Second Respondent

ANDRE JAMES HARRINGTON NO.

Third Respondent

INGE FRANCES PICK NO.

Fourth Respondent

MARIUS HOFF MULLER NO.

Fifth Respondent

JOHN RUSSEL MACEY NO.

Sixth Respondent

JUDGMENT

MALINDI, J

Introduction

[1] On 21 August 2025 I made an order in the following terms:

- "1. The application is struck off of the roll.*
- 2. Applicant is to pay costs for the Third to Sixth Respondents on party and party scale, including costs of counsel on scale B."*

[2] The applicant, Ms Govindsamy, filed a notice of motion dated 19 August 2025 seeking the following relief on an urgent basis:

"1. STAY IN EXECUTION: That the execution of all Magistrates' Court Orders (including taxed costs relating to Magistrate Mncube) in Randburg Magistrate's Court Case No. 7880/2020 (including the warrant/writ of execution issued on 14 August 2025) be stayed and suspended pending the finalization of the Applicant's pending High Court Rule 53 review (Case No. 2025-056196).

2. INTERDICT: That the respondents and the Sheriff of the Randburg Magistrate's Court be interdicted and restrained from executing against or disposing of any of the Applicant's personal or movable property pending the outcome of the said review.

3. RULE NISI: That a Rule Nisi do hereby issue, calling upon the respondents to show cause on 26 August 2025, or a date to be directed by the court, why the interim relief granted in paragraphs 1 and 2 above should not be made final.

4. COSTS: That the costs relating to disbursements of this application be paid by the 3rd, 4th, 5th and 6th respondents, jointly and severally, the one paying the other to be absolved."

- [3] Ms Govindsamy appeared in person and Mr McTurk appeared for the third to sixth respondents.

Applicant's contentions

- [4] Ms Govindsamy contends that the writ of execution issued on 15 August 2025 against her should be held in abeyance pending two review applications issued by her on or about 23 April 2025. They pertain to two costs orders against her made on 3 March 2025 and 19 March 2025, made by the first and second respondent's respectively. Pertinent to this application is the one made by Magistrate Ncube on 19 March 2025. The Magistrate, in an urgent application dismissed the application with costs, which costs were marked immediately taxable and payable in terms of Magistrate Court Rule 33(3).

Background

- [5] The respondents' attorneys prepared a bill of costs and notice of taxation which was served and filed on 2 April 2025. The taxation was not opposed by the applicant, and the notice was set down for hearing on the unopposed taxation roll on 14 August 2025.
- [6] The taxing master endorsed the notice on 14 August 2025 and allocatur was made.
- [7] On 14 August 2025, demand was made against the applicant by e-mail of (R32,778.46)¹, and she was warned therein that a warrant of execution would be issued if she does not pay.
- [8] On 15 August 2025 a warrant of execution was issued and the sheriff was instructed to execute the warrant which he did on 19 August 2025. He attached goods to the monetary value of the warrants, without removing them. The next

¹ Answering affidavit: CaseLines 9-11, paragraph 21; Writ: CaseLines 3-17.

step is for the sheriff to be instructed to remove the goods attached for sale in execution.

- [9] Further common cause facts are that the applicant brought an urgent application on 19 March 2025 before Magistrate Ncube to stay execution on the taxed costs. The application was dismissed with costs.
- [10] Similarly, on 10 July 2025 this application was first initiated and removed from the roll due to lack of urgency. Costs were reserved.

Reasons for urgency

- [11] The applicant contends that this matter is urgent because of the attachment that occurred on 19 August 2025, and that removal of the goods can take place at any time. She also alleges that there is an agreement with the respondents not to execute pending the review of Magistrate Ncube's judgment.
- [12] The respondents contend that the removal of the goods to be sold in execution is a process that may take 2-4 weeks from 19 August 2025 and that the sale itself could take up to two months thereafter as it has to be published in newspapers and in the Gazette first. The applicant will also know when a date has been set for the sale. Secondly, the respondent states that the applicant requested a stay in execution, but the respondents never agreed to it.
- [13] The e-mail sent to the respondents' attorneys on 19 August 2025 at 8:37 reads as follows:

"The sheriff came to my home and attached my assets. despite multiple requests to stay the execution, you took aggressive unreasonable action against me.

I request a written undertaking to stay execution and withdrawal of action pending the high court review application, in writing within 30 minutes. Alternatively, I will be forced to go to urgent court TODAY.

I have already spoken to the judges secretary. I am busy drafting the application. we can avoid the legal costs should you provide the above mentioned written undertaking in due course.

I AWAIT YOUR RESPONSE BEFORE 9AM."

- [14] This request was preceded by a similar request made on 18 August 2025 under the heading:

"Regarding: request for written undertaking to stay the execution (including costs) of the Randburg Magistrate's Court orders under case number 7880-2020, pending the finalization of the High Court review application under case number: 2025-056196.

- [15] I reproduce the letter in full hereunder.

"Dear Sir/Madam,

- 1. As you are aware, I am the applicant in the review application in [the] High Court under case number 2025-056196 ("the review application"). I am [a] lay person acting in my own name.*
- 2. The purpose of this letter is to attempt to resolve a narrow, practical issue without engaging in further protractive litigation and incurring unnecessary legal costs.*
- 3. As the finalization of the review application is still pending, I request that you provide a written undertaking that the execution of the allocatur served on me by e-mail on 15 August 2025 be stayed pending the finalization of the review application.*
- 4. I confirm that I am doing everything in my power to enroll the review application and in this regard I specifically record that:*
 - 4.1. On 22 April 2025, the application for review was served and simultaneously I expressly requested that all execution, including costs, be stayed with immediate effect.*
 - 4.2. On 23 April 2025 I filed the combined review application on Court Online.*
 - 4.3. By the end of April 2025 I served the papers on the Randburg Magistrates' Court.*
 - 4.4. From April 2025 to July 2025 we corresponded by e-mail, and as no objection was raised to the requested stay of execution and being mindful*

that no further steps were taken in this regard, I bona fide believed that you did not proceed with the taxation of the cost order, which cost order form part of a pending review application.

- 4.5. Despite the aforesaid and on 14 August 2025 I was served, by your office, with a taxed bill for immediate payment. This departed from the stance consistently followed since April and came without prior notice to grave surprise.*
- 4.6. On 15 August 2025 your office stated that a review application does not automatically suspend execution which I was unaware of. That was the first indication that you intend to proceed despite the earlier understanding.*
- 4.7. I confirm however that throughout, I pursued transcripts from Gauteng Transcribers and the Randburg court to advance the review. Those efforts are documented.*
- 5. The e-mail trail shows an accepted or, at minimum, acquiesced stay. Acting now on taxation and execution, after months of holding over, creates unnecessary prejudice and costs. Had you indicated earlier that you would proceed, I would have sought a formal stay timeously and more importantly, I would have filed a notice of intention to oppose/object to the presented bill. This right of opposition was taken away due to the understanding that the execution of the order was stayed.*
- 6. The review raises serious, bona fide grounds fit for determination by the High Court:*
 - 6.1.1. The magistrates' court applied the wrong approach and overlooked material considerations on record.*
 - 6.1.2. Relevant evidence and factors were not properly weighed, rendering the outcome unreasonable, among other pertinent facts of unfair hearing and silent grounds for review brought in a timely manner.*
 - 6.1.3. The cost order pertaining to Magistrate Ncube are not justified on the record and warrant intervention.*
 - 6.1.4. These are substantive errors, not technicalities, and they provide a reasonable prospect that the impugned orders will be set aside or varied.*
- 7. The High Court has a discretion to stay execution pending the outcome of another proceeding where justice so requires, including under Uniform Rule 45A and the Court's inherent jurisdiction. The established considerations favor a stay in this instance because:*
 - 7.1. There is a genuine, timeously filed review with arguable prospects.*

- 7.2. *I face real prejudice if execution proceeds now, and pressure to make immediate payments that cannot be done.*
- 7.3. *Your clients suffer no material prejudice from a temporary hold-over pending a hearing on merits.*
- 7.4. *Convenience and fairness favour avoiding steps that may later be rendered nugatory. On these facts, a stay is, more probable than not.*
8. *I record that I have made 2 requests to date hereof by way of e-mail correspondence, not only was no objection received but no response whatsoever was received.*
9. *This is a final attempt to avoid further proceedings and incurring unnecessary costs on both sides.*
10. *Accordingly, I hereby request a written undertaking to reach me by close of business on 19 August 2025 that, pending final determination of the High Court review (including any interlocutory steps and costs), you will take no steps to execute or enforce the magistrates' court orders or any taxed or allocated costs; that any writ, warrant, notice or allocatur already obtained will be held over and not acted upon; and that you will notify the Sheriff where applicable.*
11. *I further state on record, that it has always been my intention to oppose any costs presented*
12. *failing receipt of the undertaking as aforesaid, I will have no alternative but to seek the assistance of attorneys to bring an urgent application to stay execution and to interdict further enforcement steps, with the appropriate cost order as the issue could reasonably have been resolved by agreement as stated herein.*
13. *This request is made to conserve costs and court time. A short, common-sense hold-over until the review is heard is the fairest and most economical course.*
14. *I await your response."*

[16] The respondents responded to both correspondents on 19 August 2025 at 10:10, stating:

"Hi Christine,

With reference to the correspondence below and your letter sent yesterday afternoon at 4:33pm.

We are in the process of perusing the correspondence in order to take instructions from our client.

We will further follow up with the Sheriff regarding the attachment of goods. To my knowledge the Sheriff was telephonically instructed Friday the 15th of August 2025 to execute the warrant.

We will urgently proceed to obtain instructions and revert at the soonest.

Needless to state that all our client's rights remain strictly reserved."

[17] From the above chronology and background, it is clear that the execution of the taxed costs has been known to the applicants since the notice of taxation on 2 April 2025, and that she sought to stay execution thereof when filing the 2 review applications on 23 April 2025. Furthermore, the application of 10 July 2025 was removed from the roll for lack of urgency. The applicant claims urgency now because attachment has taken place and removal of goods can happen at any moment in her view.

[18] The respondents never made the undertaking sought by the applicant and never acquiesced to it. To the applicant's knowledge they proceeded to execute on the taxed bill of costs.

Conclusion

[19] The applicant was aware of the date of Magistrate Ncube's order on 19 March 2025 and the reasons for the order he delivered on 10 April 2025. The bill of costs was immediately taxable and that it would be executed once it has been taxed and allocatur issued. She had notice of the taxation and chose not to oppose it.

[20] The applicant took steps to set aside Magistrate Ncube's order by reviewing his decision and brought two applications on an urgent basis to hold the execution of the costs orders in abeyance, unsuccessfully. Now that the writ of execution has been issued and attachment of goods has taken place the applicant is seeking its stay on extremely urgent basis.

[21] The directives of this court are that matters can only be brought on an extremely urgent basis if irreparable harm would result if the matter cannot be heard

during the urgent court week that it is brought. The normal urgent court proceedings require that the papers of the applicant and respondents be complete and filed on the Thursday before the start of the urgent court week on the following Tuesday. This matter was not compliant with this directive, and for no good reason.

[22] The Respondents have demonstrated that the removal of the attached goods would not have taken place during the week of 19 August 2025 and would not take place over the next 2-4 weeks. Further, the sale in execution would take place only some month or two thereafter. In the circumstances, there was no urgency requiring that the matter be heard on such truncated time frames. The applicant could take the step in due course and receive alternative adequate remedies available to her.

[23] It is my conclusion therefore that the urgency was self-created. The courts do not come to the rescue of litigants who allow a situation to arise which they could have arrested sooner. Secondly, the applicant would receive alternative adequate remedy even if the sale in execution were to take place and finally succeed in her review applications. Thirdly, not all goods to the value of R252,000.00 would have been removed. Only those enough to satisfy the amount of R32,778.46 in taxed costs.

[24] Therefore, the reasons for the order I gave on 19 August 2025 is justified.



G MALINDI

Judge of the High Court,
Johannesburg

Appearances

For the Applicant:

Ms Christine Veena Govindsamy

Instructed by:

Self-Represented

For the Respondents':

Adv S McTurk

Instructed by:

UMS Attorneys, Johannesburg

Date of Hearing:

21 August 2025

Date of Reasons:

20 March 2026