



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

CASE NO: 2026/175047

DELETE WHICHEVER IS NOT APPLICABLE

- (1) REPORTABLE: **NO**
- (2) OF INTEREST TO OTHER JUDGES:
NO
- (3) REVISED.
- (4) Date: 13 April 2026

Signature

In the matter between:

MARUPING DAVID MAAKE

Applicant

and

**WHOLESALE AND RETAIL SECTOR EDUCATION AND
TRAINING AUTHORITY**

First Respondent

TOM BLESSING MKHWANAZI

Second Respondent

SIPHO JOHANNES SHOBA

Third Respondent

JUDGMENT

NYATHI J

INTRODUCTION

[1] This is an urgent application in which the applicant, Mr Maruping David Maake ("Mr Maake"), appearing in person, seeks the rescission and setting aside of a final interdict and costs order granted by this Court on 21 October 2025 ("the October order"), together with ancillary relief suspending its operation and execution.

[2] The October order restrained Mr Maake from contacting the respondents and employees of the first respondent, save for the human resources department in relation to his labour dispute, and from making defamatory statements or unsubstantiated allegations against the respondents. It further ordered him to pay costs on scale C, including the costs of counsel.

[3] The respondents oppose the application in its entirety. They contend that the matter lacks urgency, that no basis exists for a stay or suspension, and that none of the grounds relied upon by Mr Maake justify rescission at common law or under Uniform Rule 42.

[4] The application raises issues of urgency, the principle of finality of litigation, the scope of rescission proceedings, and the proper approach where serious allegations of fraud are advanced by a self-represented litigant.

PROCEDURAL BACKGROUND

[5] The October order was granted after hearing argument on urgency and, of necessity, on the merits. It is common cause that Mr Maake was present and participated in the proceedings.

[6] On 12 March 2026 the respondents served a notice of intention to tax their bill of costs. On 27 March 2026 Mr Maake launched the present application on an urgent basis.

[7] The applicant relies on several grounds for rescission, including:

- alleged fraud and material misrepresentation in the founding affidavit in the interdict proceedings;
- alleged lack of authority to institute those proceedings;
- facial defects in the October order;
- the alleged absence of standing on the part of the first respondent; and
- the contention that the interdict was sought for an ulterior purpose.

URGENCY

[8] Rule 6(12) requires an applicant to set out explicitly the circumstances rendering the matter urgent and the reasons why substantial redress cannot be obtained in due course. The governing enquiry is whether the applicant will be afforded substantial redress at a hearing in the ordinary course (*Luna Meubels Bpk v Makin* 1977 (4) SA 135 (W) 137F–H; *Mogalakwena Local Municipality v Provincial Executive Council, Limpopo* 2014 (4) All SA 67 (GP) para 63).

[9] The principal basis advanced for urgency is the alleged “imminent enforcement” of the costs order following service of the notice of intention to tax.

[10] A notice of taxation does not constitute execution. Costs must first be taxed, an allocatur issued, and only thereafter may execution follow. Prior to execution, a party against whom costs have been awarded has remedies, including opposing taxation and, if necessary, invoking a review under Rule 48.

[11] Courts are generally slow to characterise the ordinary procedural steps attendant upon taxation as enforcement giving rise to urgency. In the present case, execution

was not imminent at the time the application was launched. (See *Mukaddam v Pioneer Foods (Pty) Ltd* 2013 (5) SA 89 (CC) paras 31–32).

[12] I am therefore not persuaded that the applicant has demonstrated urgency in the strict sense required by the rule. That said, urgency is not an end in itself. Given that the matter was fully argued and that the interests of justice favour finality rather than piecemeal determination, I consider it appropriate to deal with the merits.

SUSPENSION / STAY OF EXECUTION

[13] An application for rescission does not suspend the operation or execution of a court order. (*Peach v Kudjoe* 2018 ZAGPPHC 291 para 11).

[14] Relief of that nature must be sought under Rule 45A or the court's inherent discretion, supported by facts establishing the requirements for an interim interdict: a prima facie right, irreparable harm, balance of convenience and the absence of an adequate alternative remedy. (*Van Rensburg NO v Naidoo NO* 2011 (4) SA 149 (SCA) paras 51–52; *Newnet Properties (Pty) Ltd t/a Sunshine Hospital v RAF* 2025 ZASCA 19 para 26).

[15] The applicant's founding affidavit is directed almost entirely at the merits of rescission. It does not meaningfully engage with the requirements for a stay of execution nor expressly invoke Rule 45A.

[16] In these circumstances, no proper case has been made out for suspending the operation and execution of the October order.

THE LEGAL FRAMEWORK FOR RESCISSION

[17] A final judgment or order may be rescinded under limited circumstances,¹ including:

- at common law, where it was obtained by fraud to which the successful litigant was party;² or
- under Rule 42(1)(a), where it was erroneously sought or erroneously granted.

[18] Rescission proceedings are not an appeal in disguise. They do not permit a rehearing of the merits merely because a litigant is dissatisfied with the outcome.³ The principle of finality in litigation remains foundational.

ALLEGED FRAUD AND MISREPRESENTATION

[19] The gravamen of Mr Maake's case is that the October order was procured through what he characterises as "three layers of deliberate misrepresentation".

[20] Fraud is not lightly inferred. A party seeking rescission on this ground must allege and prove:

- that the successful litigant was a party to the fraud;
- that materially false evidence was adduced with intent to mislead; and
- that the court would not have granted the order had the true facts been before it.

[21] Having regard to the papers as a whole, the applicant has not discharged this onus.

¹ *Firestone SA (Pty) Ltd v Gentiruco AG* 1977 (4) SA 298 (A) 306H–307C.

² *Schierhout v Union Government* 1927 AD 94 at 98; *Markings v Markings* 1958 (1) SA 338 (A).

³ *Pitelli v Evergreen Forestry (Pty) Ltd* 2009 (5) SA 171 (SCA) para 13; *Ratshitanga v Madima* NO 2023 ZAGPJHC 76 para 52.

[22] Much of what is advanced as fraud concerns disputes about attribution of allegations, contextual background, or the characterisation of events. These matters were traversed, or could reasonably have been traversed, in the original proceedings.

[23] Crucially, the October order was grounded primarily on the applicant's own email of 1 April 2025, the dissemination of which was not denied, and which formed the factual basis for the finding of a clear right and apprehension of harm.

[24] Even accepting that certain factual disputes exist, they do not establish that the respondents knowingly placed materially false evidence before the Court so as to induce the October order. At best for the applicant, they raise disagreements with the reasoning or emphasis adopted in that judgment.

[25] That is insufficient to justify rescission on the ground of fraud.

RULE 42(1)(a)

[26] Rule 42(1)(a) applies where an order was erroneously sought or erroneously granted in the absence of an affected party, or as a result of a common mistake.

[27] The applicant was present and represented himself when the October order was granted. The rule is therefore inapplicable.⁴

[28] The alleged errors relied upon by the applicant—such as the incorrect division reflected in the heading and the incorrect middle name of the third respondent—are, at most, patent clerical errors capable of correction under Rule 42(1)(b). They do not render the order erroneous in substance and do not justify its rescission.⁵

⁴ *Lodhi 2 Properties Investments CC v Bondev Developments (Pty) Ltd* 2007 (6) SA 87 (SCA) para 27.

⁵ *Thompson v SABC* 2001 (3) SA 746 (SCA) para 5.

AUTHORITY AND STANDING

[29] The argument that the interdict proceedings were a nullity for want of authority was raised for the first time in this application.

[30] Rule 7 provides a specific mechanism for challenging the authority of an attorney or a party acting on behalf of another. That mechanism was not invoked timeously.

[31] In any event, it is well established that the authority to depose to an affidavit is distinct from the authority to institute proceedings.⁶ The applicant has not demonstrated that the proceedings themselves were unauthorised.

[32] The contention that the first respondent lacked standing likewise does not avail the applicant. Whatever the precise scope of the first respondent's claim, the second and third respondents plainly asserted personal rights to dignity and reputation capable of protection by interdict.⁷

SELF-REPRESENTATION

[33] Mr Maake appeared in person. Courts are enjoined to afford self-represented litigants appropriate latitude. That does not, however, relieve such a litigant of the obligation to satisfy the substantive and procedural requirements for the relief sought.⁸

[34] The applicant's papers demonstrate considerable industry and articulation. The difficulty lies not in form, but in substance.

⁶ *Ganes v Telecom Namibia Ltd* 2004 (3) SA 615 (SCA) para 19; *Eskom v Soweto City Council* 1992 (2) SA 703 (W) 705F–J

⁷ *Manuel v EFF* 2019 (5) SA 210 (GJ); *EFF v Manuel* 2021 (3) SA 425 (SCA) para 89

⁸ *De Beer v North-Central Local Council* 2002 (1) SA 429 (CC) para 11.

CONCLUSION

[35] The application lacks urgency. No proper case has been made for a stay or suspension of the October order. The requirements for rescission at common law or under Rule 42 have not been met.

[36] The application falls to be dismissed.

COSTS

[37] The respondents seek a punitive costs order.

[38] While the application was unsuccessful and, in parts, misconceived, I am mindful that Mr Maake is a self-represented litigant raising issues he genuinely believes to be of constitutional and personal significance.

[39] In the exercise of my discretion, and bearing in mind the *Biowatch* principle⁹ and the need not unduly to chill access to court, I consider that the interests of justice are met by an ordinary costs order.

⁹ *Biowatch Trust v Registrar, Genetic Resources* 2009 (6) SA 232 (CC).

ORDER

The following order is made:

1. The application is dismissed.
2. The applicant is ordered to pay the respondents' costs, jointly and severally, on the party-and-party scale, including the costs of counsel.


J.S. NYATHI
Judge of the High Court
Gauteng Division, Pretoria

Date of hearing: 01 April 2026

Date of Judgment: 13 April 2026

Appearances:

On behalf of the Applicants: Mr. DM Maake in person

On behalf of the Respondents: Adv. SL Mohapi

Attorneys for the Respondent: Webber Wentzel Attorneys.

Delivery: This judgment was handed down electronically by circulation to the parties' legal representatives by email and uploaded on the CaseLines electronic platform. The date for hand-down is deemed to be 13 April 2026.