



IN THE HIGH COURT OF SOUTH AFRICA
FREE STATE DIVISION, BLOEMFONTEIN

Not reportable

Case no: 4990/2025

In the matter between:

MATJHABENG LOCAL MUNICIPALITY

APPLICANT

and

VAAL CENTRAL WATER BOARD

FIRST RESPONDENT

LUVUYO NTOYI

SECOND RESPONDENT

Neutral citation: *Matjhabeng Local Municipality v Vaal Central Water Board and Another* (4990/2025) ZAFSHC 265 (29 April 2026)

Coram: MAJOSI AJ

Heard: 04 November 2025

Delivered: 29 April 2026

Summary: Urgent interdict to uplift water restrictions within its area of jurisdiction – interim relief granted – interim interlocutory order – an appeal in terms of s 18(1) of the Superior Courts Act 10 of 2013 does not suspend an interim interlocutory order as it is not final in nature.

ORDER

- 1 The applicant's non-compliance with the rules of court relating to time periods and service is condoned and the application is urgent in terms of rule 6(12);
 - 2 The applicant's failure to adhere to the timeframes relating to time periods and service in terms of s 35 of the Law of General Amendment Act 62 of 1955 is condoned and this application is heard as one of urgency;
 - 3 The first respondent is directed immediately to uplift the water restrictions it implemented within the applicant's jurisdiction and the first respondent is interdicted and restrained from implementing or allowing the implementation of any further water restrictions within the applicant's jurisdiction pending the finalisation of review proceedings under case number 4486/2025;
 - 4 Each party shall pay their own costs.
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JUDGMENT

Majosi AJ

[1] The applicant herein obtained an order on an urgent basis prohibiting the first respondent from imposing bulk water supply restrictions in its jurisdiction pending the finalisation of a review application under case number 4486/2025 on 19 September 2025. On 1 October 2025, the applicant filed an application to hold the second respondent in contempt of this order on an urgent basis. The application is opposed and was on the papers alone, supposed to be the subject matter of my adjudication.

[2] In order to understand the relief being sought, it is necessary to look at the background of this matter and what led to the applicant to launching an urgent contempt application. After an order was granted on 19 September 2025, the first respondent was interdicted and prohibited from imposing bulk water supply restrictions in the municipality's jurisdiction pending the finalisation of review proceedings. On 23 September 2025, the first respondent requested written reasons for the orders granted

on 19 September 2025. Shortly thereafter, the respondent filed an application for leave to appeal the order on 25 September 2025. This was despite the fact that the judge of this Division had not yet provided reasons for judgment and according to rule 49(1)(c) of the Uniform Rules of Court, had 10 days within which to provide reasons for the order.

[3] On 29 September 2025, the first respondent caused a s 4(5) of the Water Services Act 108 of 1997 (the Act), notice to be served on the applicants informing them that should they not fulfil their debt obligations, water restrictions would be implemented from 30 September 2025. This notice was authored by the second respondent in his capacity as chief executive officer of the first respondent. This notice also indicated to the applicants the court order obtained by them was suspended pending the application for leave to appeal outcome.

[4] The water restrictions were indeed implemented on the aforesaid date causing the applicants to once again, approach this Court on an urgent basis for contempt proceedings on 1 October 2025. The interim relief sought were the usual prayers for the matter to be heard on an urgent basis but that the respondents, now be restrained from implementing water restrictions pending arbitration proceedings and that the second respondent be held in contempt and be sentenced to a period of three months' imprisonment, wholly suspended. Lastly, that the respondents be held jointly and severally liable with a cost order on an attorney and client scale.

[5] The contempt application became opposed as the respondents alleged that the relief obtained by the applicant was final in nature and that by filing an application for leave to appeal, the order dated 19 September 2025 was automatically suspended as per s 18(1) of the Superior Court's Act 10 of 2013 (SC Act). After an agreement between the parties, the respondent was ordered to uplift the water restrictions imposed in its jurisdiction. Time lines for the filing of papers and heads of argument were given¹ and were indeed filed but the matter was not heard until the 6 of November 2026.

[6] On this date, the applicant no longer persisted with the relief sought in its original notice of motion² which was restraining the respondents from implementing water

¹ Court order of Naidoo J, dated 1 October 2025.

² Indexed bundle page 2, Notice of motion specifically paras 3.1 and 3.2.

restrictions pending finalisation of arbitration proceedings or that the second respondent be held in contempt. An order was now sought that the water restrictions be stayed pending the finalisation of review proceedings with costs on an attorney and client scale as per the initial order granted on 19 September 2025. The order sought against the second respondent for contempt of the court order was not persisted with and thus abandoned. The result thereof changed the landscape of the actual relief sought and arguments advanced as parties were at odds as to whether or not the leave to appeal application as filed on 25 September 2026 suspended the order granted on 19 of September 2025. This is the actual adjudication that this Court is confined to.

[7] The applicant argued that the respondents' reliance on s 18(1) of the SC Act is misplaced and that, the provisions of s 18(2) were applicable due to the fact that the order granted was interlocutory and thus cannot be considered a final order. This was due to the undisputed fact that the order stated that the first respondent would be prohibited from implementing water restrictions pending the outcome of review proceedings, which was still pending under a different case number and at the time of the hearing of this matter, was unopposed.

[8] The applicant in support of this assertion, the applicant relied on *Mathale v Linda and Others*³ and *Cipla Agrimed (Pty) Ltd v Merck Sharp Dohme Corporation and Others*,⁴ and argued further that it is not in the interest of justice that interlocutory orders be subject to appeal. Moreover, that for an order to be appealable it had to have three attributes namely, its effect had to be final, definitive of the rights of the parties and dispose of a substantial portion of the relief claimed in the main proceedings.

[9] In light of the order granted, they were thus of the view that a substantial portion of the actual relief sought had not yet been disposed of for s 18(2) of the SC Act to be applicable and render the order subject to an appeal. To that end, I was referred to *Zweni v Minister of Law and Order*,⁵ which as far back as 1993 laid down these three above mentioned principles and *Municipal Manager OR Tambo District Municipality and Another*

³ *Mathale v Linda and Others* [2015] ZACC 38; 2016 (2) BCLR 226 (CC); 2016 (2) SA 461 (CC); *Mathale and Others v Mailula and Others* [2009] ZACC 7; 2010 (2) SA 257 (CC); 2009 (8) BCLR 767 (CC).

⁴ *Cipla Agrimed (Pty) Ltd v Merck Sharp Dohme Corporation and Others* [2017] ZASCA 134; 2018 (6) 440 (SCA) para 37.

⁵ *Zweni v Minister of Law and Order* 1993 (1) SA 523 (A) at 532I-533A.

v Ndabeni,⁶ wherein it was reaffirmed that a court order is binding until it is set aside by a competent court.

[10] Transversely thereto, the respondents argued that they cannot be in willful default of a court order as the order itself has been suspended after an application for leave to appeal was filed on 25 September 2025 and thus, the contention that they are in contempt of an court order has no legal merit. This was premised on the provisions of s 18(1) of the SC Act had the effect of suspending the order and the effect thereof of was final as envisioned in *KMR v KR*,⁷ wherein it was stated that interlocutory orders may have the final effect of a judgment and are suspended pending the exhaustion of the appeal process.

[11] To that end I was specifically referred to *Tswelopele Local Municipality and HT Pelatonia Projects (Pty) Ltd*,⁸ wherein it was found that the effect of the interim order was irreversible and had the potential to cause irreparable damage and thus fell into the purview of s 18(1) of the SC Act and was suspended. Moreover, that the applicant approached the court with self-created urgency as they (applicants) seek to circumvent the provisions of s 18(3) which is irregular.

[12] Furthermore, the impugned order imposed no personal obligation on the second respondent as he is the chief executive officer of the first respondent and he is not a party to these proceedings as he was not joined as a respondent in the initial application which was launched and granted on 19 September 2025. The initial relief sought in the notice of motion now seeks to vary the order granted that the prohibition of the be extended until the end of the arbitration proceedings.

[13] The respondents also contended that the said order was granted in the absence of jurisdiction as the mandatory pre-condition of service on the Minister of Water and Sanitation in terms of s 47 of the Act was not complied with and for that reason, the order made is susceptible to a successful appeal and that this Court should be slow to use the

⁶ *Municipal Manager OR Tambo District Municipality and Another v Ndabeni* [2022] ZACC 3 paras 24 and 39.

⁷ *KMR v KR* [2021] ZAGPJHC 35; [2021] JOL 50113 (GJ) para 11.

⁸ *Tswelopele Local Municipality and HT Pelatonia Projects (Pty) Ltd* (2214/2022) [2022] ZAFSHC 184 (3 August 2022) paras 19-21.

drastic remedy of contempt of court to enforce an order.

[14] The order obtained on an urgent basis the 19 of September 2025 was very specific. The first respondent was interdicted and restrained from implementing or allowing the implementation of watershedding within the applicant's jurisdiction which water shedding is scheduled to commence and that this order will serve as interim relief pending the finalization of the review application under case number 4486/2025.⁹

[15] In my view, this can only be considered an interlocutory interdict and not a final order for several reasons. Firstly, the relief obtained by the applicant was subject to the outcome of the review proceedings. This in effect means that the order will only remain in effect until the review proceedings are concluded and finalised. If the court order had simply interdicted the first respondent from imposing water shedding, a case may have been made out for the provisions of s 18(1) of the SC Act being applicable.

[16] Secondly, having determined that the said order is interlocutory in nature, a proper reading of s 18(2) of the SC Act reveals that such orders (interlocutory orders) which are the subject of an appeal, are not suspended pending the decision of the appeal court. This is despite the submissions made by the respondents that the applicant chose to circumvent the provisions of s 18(3). It thus cannot be said that the provisions of s 18(1) is applicable to this matter as it is not a final order as the relief granted on the 19 of September 2025 did not dispose of the matter nor did it dispose of a substantial portion of the proceedings.

[17] Thirdly, the arguments advanced by the respondents regarding non-compliance with s 47 of the Act is one of their grounds for appeal.¹⁰ Although this is made mentioned of in the answering affidavit and well drafted heads of argument, this remains to be decided in the application for leave to appeal and if it goes further, by the appeal court and thus does not fall within the ambit of my adjudication. I say this as despite the late penning of this judgment which is regrettable, at the time of hearing this particular application, the notice of appeal had been filed even before the reasons for judgment had been received by both parties.

⁹ Paras 3 and 4 of Court Order dated 19 September 2025.

¹⁰ Indexed bundle p 128, Notice of application for leave to appeal, para 17

[18] Lastly, at argument stage, the applicant specifically mentioned that they are no longer seeking an order which would amount to the first respondent being prohibited from imposing water restrictions pending arbitration proceedings but will seek to reaffirm the order granted on the 19 of September 2025 with the provision that the interim relief is subject to finalisation of review proceedings. The respondents were opposed to the initial relief sought as it would amount to variation of the court order. On this particular aspect it is my view they are correct. Although the respondents were vehemently opposed to the relief sought against the second respondent based on non-joinder, this is no longer an issue which requires adjudication by this Court.

[19] It must be remembered however that this is no longer the relief sought by the applicants but it ought to play a role where the awarding of costs is concerned especially in light of the fact that, the applicant no longer seeks to hold the second respondent herein in contempt and abandoned this relief sought in 3.2. of its notice of motion. This amendment was sought late, after the respondents already filed answering affidavits and was not mentioned in the replying affidavit as the applicants persisted with the relief sought in the notice of motion. I must mention however that had the first respondent not sent the s 4(5) of the Act, the applicant would not have brought this application on an urgent basis. It is my view that in light of the aforementioned notice and subsequently imposed the water restrictions. This effectively means that both parties were partially successful and it would only be just that I exercise my discretion and order that each party pay their own costs.

[20] Accordingly, it is ordered that:

- 1 The applicant's non-compliance with the rules of court relating to time periods and service is condoned and the application is urgent in terms of rule 6(12);
- 2 The applicant's failure to adhere to the timeframes relating to time periods and service in terms of s 35 of the Law of General Amendment Act is condoned and this application is heard as one of urgency;
- 3 The first respondent is directed immediately to uplift the water restrictions it implemented within the applicant's jurisdiction and the first respondent is interdicted and restrained from implementing or allowing the implementation of any further water

restrictions within the applicant's jurisdiction pending the finalisation of review proceedings under case number 4486/2025;

4 Each party shall pay their own costs.


O R MAJOSI
ACTING JUDGE OF THE HIGH COURT

Appearances

For the applicant:

Instructed by:

S Grobler with MB Mojaki and TM Ngubeni

Moruri Attorneys,

Bloemfontein

For the respondents:

Instructed by:

AE Ayayee with L Mukome

Majuvu Inc, Johannesburg

c/o Rampai Attorneys,

Bloemfontein.