



OF INTEREST

IN THE HIGH COURT OF SOUTH AFRICA
(EASTERN CAPE DIVISION, EAST LONDON CIRCUIT COURT)

CASE NO: 2026-100817

In the matter between:

FREDERICK KUSAMBIZA-KIINGI

Applicant

and

BUFFALO CITY METROPOLITAN MUNICIPALITY

THE MUNICIPAL MANAGER,

First Respondent

BUFFALO CITY METROPOLITAN MUNICIPALITY

Second Respondent

and

CASE NO:2026-103417

In the matter between:

BULELWA MFAXA

Applicant

and

BUFFALO CITY METROPOLITAN MUNICIPALITY

THE MUNICIPAL MANAGER,

First Respondent

BUFFALO CITY METROPOLITAN MUNICIPALITY

Second Respondent

and

CASE NO: 2026-103427

In the matter between:

VENEDENE MALGAS

Applicant

and

BUFFALO CITY METROPOLITAN MUNICIPALITY

THE MUNICIPAL MANAGER,

First Respondent

BUFFALO CITY METROPOLITAN MUNICIPALITY

Second Respondent

REASONS FOR ORDERS

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Introduction

[1] These matters served before this Court in the motion court and concern the alleged unlawful disconnection, blocking and/or restriction of electricity supply by the first respondent to various residential premises occupied by the applicants.

[2] Although enrolled under separate case numbers and arising from different alleged disconnections of electricity supply, the applications reveal a common litigation pattern which requires consideration by this Court.

[3] In each matter the applicants seek substantially identical relief, namely:

3.1 declaratory relief declaring the respondents' conduct unlawful.

- 3.2 mandatory relief directing the immediate restoration and/or unblocking of electricity supply.
- 3.3 interdictory relief restraining future disconnections or restrictions.
- 3.4 relief prohibiting the levying of reconnection fees and
- 3.5 costs on a punitive scale.

[4] In each matter the applicants expressly refer to prior proceedings between substantially the same parties concerning substantially the same subject matter and annex final court orders granted in their favour. Notwithstanding the existence of those orders, the applicants have instituted fresh urgent proceedings seeking materially identical relief.

[5] These matters accordingly raise the question whether litigants who already possess operative court orders regulating the conduct complained of may repeatedly institute fresh urgent applications seeking substantially identical relief whenever subsequent disconnections occur, or whether such conduct constitutes impermissible relitigation and an abuse of court process.

Legal framework

Inherent jurisdiction and abuse of process

[6] Courts possess an inherent power to regulate and protect their own process and to prevent abuses thereof. In *Beinash v Wixley*,¹ the Supreme Court of Appeal confirmed that an abuse arises where procedures permitted by the *Rules* are employed for purposes extraneous to the objects for which those procedures were intended. The Court must therefore consider not only whether the relief sought is competent, but also whether the procedure adopted is appropriate in the circumstances of the case.

¹ 1997 (3) SA 721 (SCA) at 734F–G

Finality of litigation and issue estoppel

- [7] South African law places considerable weight upon the finality of litigation. The doctrines of *res judicata* and issue estoppel exist to prevent repetitive litigation, promote legal certainty and protect the integrity of judicial determinations.
- [8] In *Smith v Porritt and Others*,² the Supreme Court of Appeal explained that issue estoppel developed as a relaxation of the strict requirements of *res judicata*. The Court nevertheless emphasized that the doctrine remains rooted in considerations of fairness, finality and the avoidance of repetitive litigation.
- [9] The underlying principle is that litigation should not endlessly recur in different guises where operative judicial determinations already regulate the dispute between the parties. Finality in litigation serves important public purposes including legal certainty, judicial economy and the preservation of finite judicial resources.

Enforcement of existing orders

- [10] Final court orders are binding and enforceable unless and until set aside by a competent court. The rule of law requires compliance with judicial orders and litigants are ordinarily expected to utilize recognized enforcement procedures where non-compliance is alleged.
- [11] In *Fakie NO v CCI Systems (Pty) Ltd*,³ the Supreme Court of Appeal reaffirmed that contempt proceedings exist both to vindicate the authority of the courts and to compel compliance with court orders. The availability of such remedies reflects the importance our law attaches to the enforcement of judicial determinations.
- [12] Where litigants already possess operative court orders regulating the conduct complained of the proper enquiry ordinarily concerns the enforcement of those orders rather than the repeated institution of fresh proceedings seeking

² 2008 (6) SA 303 (SCA) at paras 8–10

³ 2006 (4) SA 326 (SCA) at para 8

substantially identical relief. The availability of recognized enforcement mechanisms is therefore an important consideration.

The factual matrix

The Kusambiza-Kiingi matter

[13] In the present matter the applicant expressly alleges that this is not the first occasion upon which he has approached this Court regarding the disconnection or restriction of electricity supply by the respondents.

[14] The applicant refers to numerous prior proceedings involving substantially the same parties and substantially the same dispute, including matters under case numbers EL320/2022, EL1075/2022, EL197/2023 and EL1116/2022. Copies of orders granted in those proceedings are annexed to the founding affidavit. The applicant acknowledges that interim relief was previously granted and, in certain instances, confirmed. Notwithstanding the existence of those orders, the present application seeks substantially similar declaratory, mandatory and interdictory relief.

[15] Significantly, the applicant does not seek to enforce the existing orders through contempt proceedings or other recognized enforcement mechanisms. Instead, he has elected to institute fresh urgent proceedings seeking substantially the same relief.

The Mfafa matter

[16] In the matter of *Bulelwa Mfafa v Buffalo City Metropolitan Municipality and Another* the applicant similarly records that she had previously approached this Court regarding the blocking or restriction of electricity supply.

[17] The applicant refers specifically to proceedings under case number 2026-013409 in which an interim order was granted on 23 January 2026 and thereafter made final on 17 February 2026. The final order declared the disconnection unlawful, directed restoration of electricity supply and interdicted future unlawful

disconnections. Despite the existence of that operative relief, the applicant instituted fresh urgent proceedings seeking materially identical relief arising from a subsequent alleged disconnection.

The Malgas matter

[18] In the matter of *Venedene Malgas v Buffalo City Metropolitan Municipality and Another* the applicant likewise records prior urgent proceedings arising from disputes concerning electricity disconnections.

[19] The applicant records that under case number 2026-044654 an interim order was granted on 3 March 2026 and thereafter made final on 31 March 2026. That order similarly granted declaratory and interdictory relief regulating the parties' relationship concerning the supply of electricity. Notwithstanding the existence of the final order, the applicant instituted fresh urgent proceedings seeking substantially identical relief arising from a subsequent alleged disconnection.

Evaluation

[20] This Court accepts without hesitation that unlawful disconnection of electricity may, depending on the circumstances, justify urgent judicial intervention. Electricity supply implicates important constitutional and socio-economic considerations and the hardship occasioned by unlawful disconnections should not be underestimated.

[21] The present matters however reveal a materially different concern. In each matter the applicants already possess final court orders regulating the conduct complained of. Those orders remain binding and enforceable unless and until set aside by a competent court.

[22] The law provides recognized and effective enforcement mechanisms for litigants alleging non-compliance with existing court orders. What the applicants seek instead is the repeated granting of substantially identical orders whenever subsequent disputes arise. *Mr. Du Plessis*, who appeared for the applicants, submitted that contempt proceedings were not a viable remedy because of

difficulties associated with service and enforcement. This Court is unable to agree. Where a litigant genuinely contends that an existing court order is being disregarded, contempt proceedings are specifically designed to secure compliance with that order and to vindicate the authority of the Court.

- [23] The difficulty confronting the applicants is not the absence of judicial protection. Each applicant already enjoys operative relief granted by this Court. If the respondents acted in breach of those orders, the remedy lay in enforcing the existing orders and not in obtaining fresh orders in substantially identical terms.
- [24] To permit such a practice would undermine the principle of finality in litigation, expose urgent court process to abuse and create the potential for inconsistent orders regulating the same legal relationship between the same parties.
- [25] Where litigants allege continued non-compliance with existing court orders, the appropriate enquiry ordinarily becomes whether such orders should be enforced rather than replicated.
- [26] The prejudice occasioned by repetitive litigation of this nature extends beyond the immediate interests of the parties. It burdens already congested urgent court rolls, consumes finite judicial resources and compels expenditure by an organ of state funded from the public purse.
- [27] Nothing in this judgment should be understood as limiting the right of litigants to approach a court where genuinely new disputes arise or where existing remedies are demonstrably inadequate. The present matters concern a different situation. Each applicant already enjoys operative relief regulating the very conduct now complained of.
- [28] In those circumstances, this Court is satisfied that the institution of these fresh urgent applications constitutes an abuse of process and an impermissible duplication of relief already granted.

Costs

- [29] The remaining issue concerns costs. The applicants and their legal representatives were fully aware of the existence of the prior orders annexed to their own papers. They were equally aware that operative relief remained in force and that recognized enforcement mechanisms were available.
- [30] The institution of fresh proceedings seeking substantially identical relief notwithstanding the existence of operative orders cannot be countenanced and has unnecessarily burdened both the urgent court roll and public resources.
- [31] Whilst ordinary costs will suffice in the present matters now that the principles applicable to litigation of this nature have been clarified, parties and practitioners who persist in seeking substantially identical relief notwithstanding the existence of operative court orders should not be surprised if punitive costs orders follow.

Conclusion

- [32] During the hearing of these matters the applications were dismissed. These are the reasons for that order.
- [33] In the circumstances, the following order was issued:
1. The applications under case numbers: 2026-100817, 2026-103417 and 2026-103427 are dismissed.
 2. The applicants are directed to pay the costs of the respective applications.

SA COLLETT
ACTING JUDGE OF THE HIGH COURT

APPEARANCES

For the Applicants : Mr. Du Plessis

Instructed by : Nico Du Plessis Attorneys, East London

For the Respondent (2026-100817) : Ms. Klaas

Instructed by : Malusi & Co Attorneys, East London

For the Respondent (2026-103417) : Ms. Kela

Instructed by : Malusi & Co Attorneys, East London

For the Respondent (2026-103427) : Ms. Kela

Instructed by : Malusi & Co Attorneys, East London

Date of hearing : 26 May 2026

Date of delivery of reasons : 3 June 2026