




IN THE HIGH COURT OF SOUTH AFRICA  
GAUTENG DIVISION, PRETORIA

Case No: 2025/033592

(1)	REPORTABLE: YES/NO
(2)	OF INTEREST TO OTHER JUDGES: YES/NO
(3)	REVISED. ✓
	22/05/2026
SIGNATURE	DATE

In the matter between:

**KOSMOSDAL EXT 61 AND EXT 62 HOMEOWNERS  
ASSOCIATION NPC**

Applicant

and

**ANDILE DUBE-RAKGOSI**

First Respondent

**OUPA KGASAGO**

Second Respondent

**YOLISA NOMATHAMSANQU DYASI**

Third Respondent

**MAITE MODIBA**

Fourth Respondent

**MZUKISI DYASI**

Fifth Respondent

**NKOATSE MASHAMAITE**

Sixth Respondent

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**JUDGMENT**

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GRIESSEL AJ:

[1] The Applicant seeks an order that each of the First to Sixth Respondents be held in contempt of court for alleged failure to comply with an interim order of this Court granted on 18 December 2024 in case number 112164/2024.

[2] Under the aforementioned order of 18 December 2024, the Court granted an interim interdict pending the final determination of the matter on 22 April 2025. The interim order was made final on that date.

[3] The Respondents' alleged conduct relied upon by the Applicant in these contempt proceedings occurred in December 2024, when the interim order was in force.

[4] Paragraph 2.1 of the order dated 18 December 2024 provides that the Respondents in case number 112164/2024 are interdicted *"from spreading or dispensing misleading communications regarding the Applicant and the board of the Applicant, which communications include, but are not limited to:*

2.1.1 *That a valid members' meeting occurred on the 19<sup>th</sup> of September 2024;*

2.1.2 *That the resolutions, as provided for in terms of the meeting on the 19<sup>th</sup> of September 2024, were validly adopted;*

2.1.3 *That the meeting on the 19<sup>th</sup> of September 2024 resulted in the removal of the Applicant's existing directors;*

2.1.4 *From attempting to alter the records of the Companies and Intellectual Property Commission in respect of the directors of the Applicant."*

[5] Paragraph 2.2 of the order of 18 December 2024 provides that:

*“Any funds paid in accordance with the Respondent’s directions to Trafalgar Property Management (Pty) Ltd is to be kept in Trust until this matter is finalised by the said Trafalgar.”*

[6] Contempt of court in the context of civil proceedings is itself a criminal offence that can be prosecuted by the State. See in this regard **S v Beyers** 1968 (3) SA 70 (A).

[7] Civil contempt is defined as the wilful and *mala fide* refusal or failure of a party to comply with an order of the Court other than a money judgment.

[8] The Applicant in contempt proceedings must show that an order was granted against the Respondent and that the Respondent was either served with the order or informed of its contents, and that he or she either disobeyed it or neglected to comply with it.

[9] *Bona fides* or reasonable mistake is a good defence against a charge of contempt of court.

[10] In the present matter, it is undisputed that the Court granted the interim interdict on 18 December 2024. It is also common cause that the Respondents in the present contempt application had knowledge of the order.

[11] However, the Applicant’s first difficulty is to establish that the order of 18 December 2024 was granted against the present Respondents.

- [12] In case number 112164/2024, the First Respondent is cited as "*Xolani Njokweni*" and the Second Respondent as "*Members of the Kosmosdal Ext 61 and 62 Homeowners, as indicated in Annexure 'A'*". This is also how they are recorded in the 18 December 2024 order. However, no Annexure "A" is attached to the order. It is therefore impossible to ascertain from the order who the members cited as the Second Respondent are. The Applicant's founding affidavit provides no assistance in this regard.
- [13] In paragraph 22 of the founding affidavit, the Applicant states that the application under case number 112164/2024 was brought on an urgent basis because the "*Respondents*" were attempting to have funds paid to a third party. This obviously refers to the Respondents in case number 112164/2024, not the present Respondents, as the First Respondent in that case is not a Respondent in the present matter.
- [14] I find that the Applicant has failed to establish that the order of 18 December 2024 in case number 112164/2024 was granted against the Respondents in the present contempt application.
- [15] In support of its contention that the Respondents contravened the order of 18 December 2024, the Applicant relies on two distinct events. The first is a WhatsApp message that was sent by one Andile, which states: "*Good day. The court has ruled that money be paid into a trust (Trafalgar) until we set for the Metter (sic) in April.*"

- [16] It is not in dispute that this message was sent by the First Respondent in the present application.
- [17] Although the message does not correctly record what is stated in paragraph 2.2 of the order, paragraph 2.2 does not form part of the interim interdict granted by the court. The interim interdict is contained in paragraph 2.1 of the order. The relief sought in this application is that the Respondent be held in contempt of the interim interdict contained in the order of 18 December 2024.
- [18] Even if the interim interdict applied to the First Respondent, which the Applicant fails to establish, then I fail to see on what basis the message constitutes a non-compliance with the interim interdict.
- [19] The mere fact that the message does not correctly record the contents of paragraph 2.2 of the order does not constitute a wilful and *mala fide* refusal or failure by the First Respondent to comply with the order of 18 December 2024.
- [20] In the founding affidavit, the Applicant states that the First Respondent sent the message. During argument, the Applicant contended, based on the doctrine of common purpose, that the Second to Sixth Respondents must be regarded as having been involved in the sending of the message as *socii criminis*. No such case is made out in the founding affidavit. There is no allegation in the founding affidavit that the Second to Sixth Respondents knew or should reasonably have foreseen that the First Respondent intended to send the message and reconciled themselves to that possibility.

- [21] If the order of 18 December 2024 was granted against the present Respondents (which the Applicant failed to establish), then the sending of the message does, in any event, not constitute a wilful and *mala fide* refusal or failure to comply with the interim interdict contained in the order.
- [22] The Applicant further contends that the Respondents failed to comply with the order of 18 December 2024, in that they caused a letter to be sent “as *directors*” of the Applicant. A copy of the letter is attached to the founding affidavit as Annexure “FA15”. During argument, the Applicant contended that by sending the letter, the Respondents misrepresented that they were directors of the Applicant.
- [23] There is no allegation whatsoever in the founding affidavit identifying either the author of the letter or the person responsible for its circulation. The Applicant contended that, on the probabilities, the Court ought to infer that the Respondents circulated the letter. Such an inference cannot properly be drawn from the facts before me. For the same reasons set out above, the doctrine of common purpose does not avail the Applicant in establishing that the Respondents were responsible for the dissemination of the letter. Accordingly, even if the interim interdict of 18 December 2024 were applicable to the present Respondents, the Applicant has failed to establish that the Respondents circulated the letter in question.
- [24] In light of the foregoing, the Applicant has failed to establish that any of the First to Sixth Respondents acted in wilful and *mala fide* disregard of the interim interdict contained in the order granted on 18 December 2024 under case

number 112164/2024. The Applicant has accordingly failed to make out a case for contempt of court against any of the Respondents, and the application falls to be dismissed. There is no reason why the costs should not follow the result.

[25] The Applicant made serious allegations against the Respondents, accusing them of criminal conduct. These allegations are completely unsupported by the facts. At least one of the Respondents is an attorney. Accusations of contempt of court against an attorney carry serious implications, both professionally and reputationally. In these circumstances and having regard to the fact that the application is entirely devoid of merit, a punitive costs order is justified.

[26] In the result, I make the following order:

1. The application is dismissed.
2. The Applicant is to pay the First to Sixth Respondents' costs of the application on an attorney and client scale.

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**GRIESSEL AJ**  
ACTING JUDGE OF THE HIGH COURT

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