

REPUBLIC OF SOUTH AFRICA

IN THE HIGH COURT OF SOUTH AFRICA
GAUTENG DIVISION, JOHANNESBURG

Case Number: 2024/140651

(1)	REPORTABLE: NO
(2)	OF INTEREST TO OTHER JUDGES: NO
(3)	REVISED: YES
14 May 2026	
DATE	SIGNATURE

In the matter between:

**MERCEDES-BENZ FINANCIAL SERVICES (SA)
(PTY) LTD**

Applicant/Plaintiff

and

SMIKE DUMISANI MABUNDA

Respondent/Defendant

JUDGMENT

CRUTCHFIELD J

[1] The applicant, Mercedes-Benz Financial Services (SA) (Pty) Ltd, claims summary judgment in the following terms:

- a. Condonation for the late delivery of the summary judgment application;

- b. Confirmation of the cancellation of the instalment sale agreement;
 - c. Authorisation of the repossession of a Mercedes-Benz GLE300D 4Matic together with costs and leave to reapproach the court for damages subsequent to the repossession.
- [2] The respondent, Mr SMIKE Dumisani Mabunda, opposes the application and represents himself in person at the hearing.
- [3] The plaintiff claims condonation for the late delivery of the application for summary judgment. Condonation is an indulgence granted by a court on good cause shown in terms of rule 27(3). Condonation is not for the mere asking. The application for summary judgment was due for delivery on 4 March 2026. It was, however, delivered by the plaintiff some three weeks late, on 25 March 2026.
- [4] As is apparent, these are summary judgment proceedings. Whilst the applicant delivered the summary judgment application three weeks late, some would say a mere three weeks late, summary judgment is an extraordinary remedy, only to be granted in the clearest of circumstances, where no doubt in respect of the plaintiff's case exists. This is because final relief may be ordered in circumstances where a defendant or respondent does not have the benefit of a trial. Accordingly, a plaintiff's claim is required to be impeccable. Furthermore, a court has a discretion to refuse summary judgment even when a *bona fide* defence is not disclosed by a defendant.
- [5] It is well-established that condonation is not a mere formality. An applicant is required to explain the facts and circumstances that led to the delay in sufficient detail so as to allow a Court to understand truly how the delay occurred and why it would be in the interests of justice to condone the failure to comply with the Rules. See in this regard *Firststrand Bank Ltd v Mpho David Baloyi NO & Others*¹.
- [6] An applicant for condonation must explain the entire period of the delay. The application provided by the applicant and the explanation therein is vague,

¹ *Firststrand Bank Ltd v Mpho David Baloyi NO & Others* [2014] ZAGPPHC 995 (13 November 2014).

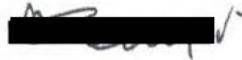
bald and lacking in such detail as to afford the alleged explanation credibility. Counsel for the applicant submitted at the hearing that the applicant fully explained the delay. I cannot agree with that submission.

- [7] The application for condonation, in effect, tells me nothing about what occurred to cause the delay or how the delay occurred. The deponent fails to furnish any dates as to when the plaintiff's attorneys advised the plaintiff of the issues raised by the defendant or when it received instructions from the plaintiff to proceed with an application for summary judgment.
- [8] Nor am I told when the applicant's attorney proceeded to prepare the application for summary judgment or when he/she instructed counsel to prepare the supporting affidavit or when that affidavit was received back from counsel ready for signature on behalf of the plaintiff. Nor am I told when the supporting affidavit was sent to the plaintiff's head office for signature.
- [9] The plaintiff refers to "the unavailability and unforeseen circumstances at the time when the affidavit was being prepared by counsel". It is impossible for me to understand what is intended by the alleged "unavailability and unforeseen circumstances" relied on by the plaintiff. The allegations by the plaintiff are vague and meaningless.
- [10] Furthermore, the plaintiff refers to the unavailability and unforeseen circumstances at the time when the affidavit had to be signed and commissioned by the plaintiff. There is no explanation as to what is meant in respect of the alleged "unavailability" or alleged "unforeseen circumstances" referred to by the plaintiff in respect of the signatory to the supporting affidavit. The so-called unforeseen circumstances referred to by the plaintiff are not explained and I am left with no inkling of what the alleged circumstances were or how they caused or contributed to the delay in delivering the application for summary judgment.
- [11] In short, the plaintiff's explanation of the delay is meaningless. It smacks of a sense of entitlement on the part of the plaintiff to condonation being granted in the plaintiff's favour. The plaintiff is a large organisation, assisted by well-

resourced legal representatives. It is not a lay person unequipped with knowledge of the rules and requirements of this court.

- [12] The condonation application does not show good cause and does not meet the required standard of such an application. In the circumstances, it would not facilitate the administration of justice if I were to grant condonation in the face of this application that does not take the requirements for condonation seriously.
- [13] Accordingly, the application for condonation for the late delivery of the summary judgment application stands to be dismissed with costs on the scale as between attorney and client. Whilst the defendant appeared before me in person, the papers reflect that historically he was represented at a stage during these proceedings and the defendant is entitled to recover such legal costs as were incurred by him. The application for summary judgment is not properly before me and stands to be struck off the roll with costs on the scale as between attorney and client.
- [14] Accordingly, I grant the following order:
1. The application for condonation for the late delivery of the application for summary judgment is dismissed with costs on the scale as between attorney and client.
 2. The application for summary judgment is struck off the roll with costs on the scale as between attorney and client.

I hand down the judgment.



CRUTCHFIELD J
JUDGE OF THE HIGH COURT
JOHANNESBURG

For the Applicant/Plaintiff:

Adv Mpho Rasivhetshele instructed by
Macrobert Incorporated.

For the Respondent/Defendant:

Self-represented in person.

Date of the hearing:

11 May 2026.

Date of the judgment:

14 May 2026.