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**IN THE HIGH COURT OF SOUTH AFRICA
MPUMALANGA DIVISION, MIDDELBURG (LOCAL SEAT)**

CASE NO: 2026-144540

(1) REPORTABLE: NO

(2) OF INTEREST TO OTHER JUDGES: NO

(3) REVISED: NO

SIGNATURE

DATE 01/07/2026

In the matter between:

BOKGONI BJWA MORENA HOLDINGS (PTY) LTD

Registration Number 2023/123912/07

APPLICANT

and

DENNIS LEHLOGONOLO LESO

Identity Number 0[...]

RESPONDENT

Delivered: This judgment was handed down electronically by circulation to the parties' legal representatives by email. The date and time for hand-down is deemed to be 01 July 2026.

JUDGMENT

Nsibande AJ

Introduction

[1] In this opposed urgent application, the applicant seeks an interdict and a preservation order of some sort in respect of funds held by the respondent in the respondent's personal bank account as well as on a business account of a company where the respondent is the sole director.

[2] The respondent is a former sole director of the applicant. He was responsible for running the affairs of the applicant since the inception of the applicant in 2023, and he resigned on 8 June 2026.

[3] During the course of his sole directorship of the applicant, the respondent, during the period between 1 June 2026 and 8 June 2026, transferred a substantial sum of money from the banking account of the applicant to his personal bank account and to a business bank account of a business to which the respondent is the sole director.

[4] The applicant alleges that these funds were unlawfully paid by the respondent to his bank account and were allocated false references.

[5] The respondent, on the other hand, alleges that, as at 8 June 2026, he was the sole director of the applicant and therefore required no authority to transfer the funds into the bank accounts that he transferred the funds into, particularly not from the deponent to the applicant's founding affidavit.

[6] Subsequent to a meeting held between the parties on 8 June 2026, the respondent has repaid a portion of the funds transferred to his bank accounts to the applicant. An amount of R4 405 472.97 has been refunded to the applicant, and an

amount of R1 406 480.98 remains in possession of the respondent. It is this amount that the applicant seeks to be preserved.

The Applicant's Case

[7] The deponent to the applicant's founding affidavit submits that he is the current sole director of the applicant, having taken full control of the affairs of the applicant at the resignation of the respondent on 8 June 2026. That upon obtaining the bank account statement of the applicant, he noted that there were sums of money that were transferred mainly to two bank accounts and that these two bank accounts are linked to the respondent as mentioned above. The applicant further submitted that these transfers were not authorised by the applicant. That after a meeting with the respondent, the respondent agreed to return a certain sum of money and retained the funds in dispute, which is the subject matter of the application before this Court.

[8] The applicant conceded that, at the meeting held between the parties and the auditors of the applicant, it was agreed that the funds retained would constitute the salary due to the respondent, after the respondent had demanded a certain share of the funds held by the applicant. The applicant goes further to state that the concessions were made under duress as there was no meeting of the minds between the parties.

[9] The applicant therefore claims that the remaining funds belong to the applicant; as such, the court should make an order preserving the funds until such time that ownership of the funds is determined at a proper platform.

[10] The reasons provided by the applicant for the preservation of the funds are that the respondent has admitted to using the funds and to continuing to use them, as they are his salary and he has daily needs that require the funds, in particular to settle his debts as he is no longer employed.

[11] The applicant further contends that he has become aware that the respondent has no registered assets in his name; as a result, he will most likely be unable to pay any judgment obtained against him by the applicant in future. To counter such eventuality, an anti-dissipation order which is sought in these proceedings is the only remedy available to him.

The Respondent's case

[12] The respondent submits that he was the sole director of the applicant from the date of its inception until the date of resignation on 8 June 2026. He denies that the deponent to the applicant's founding affidavit had any legal rights to the applicant during the period of his directorship. He acknowledges that the deponent to the founding affidavit played a role in the formulation and registration of the applicant as a company and that he later assisted the company in obtaining contracts in the mining industry.

[13] He submits that, upon realising that the applicant had a contract with the mine, the deponent to the founding affidavit approached him with the intention of taking over the control of the applicant. The respondent was not happy with that and refused to hand over the control of the applicant to the deponent to the founding affidavit. This friction caused a strain in the relationship between the parties. As the parties are related, the intervention of family members was sought, and the parties met on 8 June 2026 and had an agreement.

[14] As a result of that agreement of 8 June 2026, the respondent resigned as a director of the applicant, and the deponent to the founding affidavit became the sole director of the applicant.

[15] The respondent acknowledges that he transferred funds of the applicant to the two mentioned bank accounts before resigning. He also confirms that a substantial amount has been paid back to the applicant. He also confirms that there is a balance of

the funds that he has retained, as it was agreed that that portion of the funds shall be regarded as his salary.

[16] As a result of the above factors, the respondent is of the view that the application for the preservation of the funds should be dismissed.

Valuation of the submissions

[17] The following facts are common cause between the parties: that the respondent transferred funds of the applicant to bank accounts controlled by him without authorisation from the applicant. That the respondent has since repaid a portion of those funds, and that there is a balance in the amount of R1 406 480.98 that is still held in the bank accounts controlled by the respondent.

[18] The contest between the parties is who is the rightful owner of the funds retained by the respondent. However, this court was not called upon to answer that question.

[19] In the valuation of the submissions by the parties, it becomes clear that the issue before this Court is to determine the urgency of the matter, which the court has already declared urgent, and the determination of the parties' *prima facie* right to the funds retained by the respondent.

[20] It is common cause that the respondent transferred the funds to the bank accounts controlled by him between the period of 1 June 2026 and 8 June 2026, and that the respondent was not authorised or entitled to such funds. As a result, the respondent refunded the applicant a portion of the funds. The question arises then, why not refund the entire funds?

[21] To answer this question, the respondent submits that these funds were payment to him for his salary as per the agreement. The difficulty the court has with this submission is that the meeting relied upon by the respondent, in which the parties

agreed that he can retain the portion of funds held in the bank accounts controlled by him, took place on 8 June 2026, and the funds were transferred by him prior to that date.

[22] It is therefore clear that at the time the respondent transferred the funds to himself and his company, there was no such agreement that the funds would be treated as his salary.

[23] It is also clear that there is a dispute between the parties regarding what was agreed upon at the meeting of 8 June 2026 regarding the retained funds.

Remedy

[24] This Court finds that, from the submissions made and the documents filed on record, the applicant has been successful in proving that it has a clear right to the funds retained by the respondent, and that the respondent's claim that the funds are his salary, as such he has a clear right to the funds, is contentious under the circumstances.

[25] This Court also finds that, under the circumstances, the applicant has no other remedy to secure the retained funds but to obtain the interim interdict and preservation order sought in these proceedings.

[26] This Court is therefore satisfied that the applicant has been successful in proving the elements of an interim interdict in these proceedings.

Order

[27] In the premise, having heard Counsel for both parties, and having perused the documents filed on record, and having declared the application to be urgent and that it

be treated as such in terms of Rule 6(12) of the Uniform Rules of Court, the following order is made on the merits of the application:

1. The Respondent is ordered to, within 24 hours of receipt of this order, pay the amount of R1 406 480.98 (One Million Four Hundred and Six Thousand Four Hundred and Eighty Rands and Ninety-Eight Cents) into the Trust Account of Scheepers Pretorius Incorporated *pending* the outcome of the action proceedings to be instituted by the Applicant, to determine which party is entitled to the funds. The Applicant is to provide the banking details to the Respondent.
2. The funds are to be kept in an interest-bearing account for the benefit of the owner to be determined by the outcome of the action proceedings.
3. The Respondent is ordered to provide the Applicants' attorneys, forthwith, a physical address at which he will accept service of the action proceedings to be instituted.
4. The Applicant is ordered to issue and serve the action proceedings within fifteen (15) days of this order.
5. The costs of this application will be the costs in the action proceedings.

VM NSIBANDE
ACTING JUDGE OF THE HIGH COURT
MPUMALANGA DIVISION, MIDDELBURG

Appearances:

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