



- (1) Reportable: No
(2) Of interest to other Judges: No

Signature

Date

IN THE LABOUR COURT OF SOUTH AFRICA, DURBAN

Case No: 2026-154789

and 2026-154790

In the matter between:

POLICE AND PRISONS CIVIL RIGHTS UNION

First Applicant

INDIVIDUALS WHOSE NAMES ARE LISTED
IN ANNEXURE 'A' TO THE NOTICE OF MOTION

Second to Further
Applicants

and

DEPARTMENT OF CORRECTIONAL SERVICES

First Respondent

NATIONAL COMMISSIONER OF
CORRECTIONAL SERVICES

Second Respondent

MAKGOTHI SAMUEL THOBAKGALE

Third Respondent

MINISTER OF JUSTICE AND
CORRECTIONAL SERVICES

Fourth Respondent

BLOEMFONTEIN CORRECTIONAL
CONTRACTS (PTY) LTD

Fifth Respondent

G4S CORRECTION SERVICE
(BLOEMFONTEIN) (RF) (PTY) LTD

Sixth Respondent

Heard: 9 July 2026

Delivered: This judgment was handed down electronically by circulation to the parties and / or their legal representatives by email. The date and time for handing-down is deemed 15h00 on 28 July 2026.

JUDGMENT

ALLEN-YAMAN J

Introduction

- [1] Albeit that the applicants initiated two separate applications, the Notice of Motion in the second made it clear that the relief sought therein was in the alternative to the first,

'TAKE FURTHER NOTICE THAT this application is in terms of section 18(3) of the Superior Courts Act 10 of 2013 and is in the alternative to the contempt of Court application that has already been launched by the applicants.'

- [2] The first application ('the contempt application') was launched under 2026-154789, the orders sought in the Notice of Motion which was uploaded to CaseLines having been the following,

1. *The Second Respondent, the National Commissioner of the Department of Correctional Services: Makgothi Samuel Thobakgale is guilty of contempt of Court for failing to comply with the order of this Court dated 30 April 2026.*
2. *That Makgothi Samuel Thobakgale, be incarcerated for such period as the Court deems appropriate or for Makgothi Samuel Thobakgale to be fined an amount this Court deems appropriate.*
3. *That service of the application and this order be effected personally on the Second and Third Respondents.*

4. *That service of this order must be effected on the State Attorney.*
5. *That the First Respondent forthwith complies with the Court order dated 30 April 2026.*
6. *That the First to Third Respondents jointly and severally shall pay the costs of this application on an Attorney and client scale. In this regard, the Third respondent in his personal capacity must pay 50% percent [sic] of the costs.*
7. *That the applicants be granted such further or alternative relief as the Court may deem appropriate.'*

[3] The applicants' representative, Mr Mofokeng, was requested to explain how the application had come to be on the urgent roll in the absence of an order sought to this effect. Having taken instructions, it was explained that an erroneous Notice of Motion had been uploaded to CaseLines, and that the correct Notice of Motion appeared as an annexure to the applicants' service affidavit, which included as the first of the orders sought an order that the application be dealt with as an urgent application under Rule 38.

[4] In the second, alternative application ('the s18(3) application') the applicants sought the following orders,

- '1. *The Rules relating to the forms, service and time periods are dispensed with and this application is heard on an urgent basis in terms of Rule 38 of the Labour Court.*
2. *The automatic suspension of the order granted by Justice Gandidze on 30 April 2026 is uplifted in terms of section 18(3) of the Superior Courts Act 10 of 2013, pending finalization of the first respondent's application for leave to appeal or the appeal.*
3. *The order granted by Justice Gandidze on 30 April 2026 is operational forthwith and the applicants are permitted to execute on the order.*
4. *The first respondent shall pay the costs of this application on an attorney and client scale.'*

[5] The contempt application was opposed by the first to fourth respondents, whilst the s18(3) application was opposed by the first and second respondents, who were common to both applications.

- [6] Despite the fact that the applicant approached this court with two, separate applications, and no order of consolidation was sought or granted, in view of the fact that they both relate to the same facts and the second was to be determined in the alternative only in the event that the first was unsuccessful, the parties were in agreement that it would be appropriate for this court to deliver a single judgment in relation to both.

Background

- [7] The events which led to the present applications were fully canvassed in both the judgments of Gandidze J of 5 May 2026 under case number 2026-065612 and Snyman AJ of 30 June 2026 under 2026-124618, and will not be repeated in any detail herein.
- [8] In anticipation of the termination of sub-contract in terms of which the sixth respondent in the contempt application and the fourth respondent in the s18(3) application ('G4S') was to render certain services to the first respondent at the Mangaung Correctional Services on 30 June 2026, G4S applied to this court for a declaratory order that s197 of the LRA found application, and that, in the result its employees were to be transferred to the first respondent upon the termination of the sub-contract. This court was in agreement and ordered accordingly on 30 April 2026, the court's reasons having been provided thereafter on 5 May 2026.
- [9] The first respondent initiated an application for leave to appeal on 21 May 2026, two days outside the time period allowed therefor in terms of R67(3), and was therefore required to apply for condonation, which it did on 25 May 2026.
- [10] As it was then accepted by the first respondent that the provisions of s18(1) of the Superior Court's Act would not find application until and unless Gandidze J granted condonation for the delay in having applied for leave to appeal, it brought an application to stay execution of the order granted under 2026-065612. This application under case number 2026-124618 was dismissed by

Snyman AJ on the day on which it was argued, with reasons having been provided thereafter on 30 June 2026.

[11] The present applications were launched the following day.

Analysis: Contempt

[12] The first point taken by the first to fourth respondents in the contempt application was that of lack of urgency.

[13] Despite the prolixity of the averments made in support of their contention that the application is urgent, stripped of verbosity and in consideration of the issues actually dealt with therein, the grounds upon which the applicants asserted that the application was urgent may be summarised as follows:

- Contempt of court applications are, by their very nature, urgent as there is a general need to:
 - punish the contemtor to compel compliance;
 - protect the general administration of justice and integrity of both the Rule of Law and the Constitution.
- Having failed to transfer the applicant employees the first and second respondents have acted unlawfully, and this court has a duty to prevent unlawful conduct.
- In the face of such unlawful conduct, and there is no reason why the applicant employees ought to have to wait for a hearing in due course.
- If the application is not heard on an urgent basis, the applicant employees' right to transfer will be defeated, as they would have been dismissed from their employment.
- The loss of their employment would result in the loss of the income which they use to support their families.
- The loss of the opportunity to render services for the first respondent cannot be repaired by any future order granted in due course as they will, in the interim, have lost opportunities for promotions and education, and to study towards any '*skill within the DCS*'.

[14] A convenient starting point in the assessment of urgency is the claim made by the applicants that contempt proceedings are, by their very nature, inherently urgent. Albeit that the applicants described this principle as one which is 'trite', it nonetheless referred this court to Protea Holdings Ltd v Wriwt and Another 1978 (3) SA 865 (W), Wright v Saint Mary's Hospital, Melmoth and Another 1993 (2) SA 226 (D), and Victoria Park Ratepayers' Association v Greyvenouw CC and Others [2004] 3 All SA 623 (SE) (11 April 2003)

[15] The court in Protea Holdings Ltd considered the question of urgency in relation the respondents' continuing breach of restraint of trade obligations in terms of which they had been interdicted from the continuance of certain commercial activities. The court stated that,

*'As one of the objects of contempt proceedings is by punishing the guilty party to compel the performance of the order, it seems to me that the element of urgency would be satisfied if in fact it was shown that the respondents were continuing to disregard the order of 3 August 1977, If this be so, the applicant is entitled, as a matter of urgency, to attempt to get the respondents to desist by the penalty referred to being imposed.'*¹

[16] In Wright, pursuant to the dismissal of an appeal in which the respondent sought to overturn a reinstatement order issued in favour of the applicant by the Industrial Court, the applicant approached the court with an application for contempt. The court stated,

*'In Protea Holdings Ltd v Wriwt and Another 1978 (3) SA 865 (W) it was held that if it is established in committal proceedings that the guilty party continues to disregard the order of court the element of urgency sufficient to justify seeking relief by way of urgent application is thereby established. I am prima facie in agreement with this conclusion and the reasoning of Nestadt J in arriving thereat. As, however, the question was not fully argued I express no final view on the point which is, in any event, academic in the light of my conclusion on the issue of jurisdiction.'*²

¹ At 868H – 869A

² At 228D- E

- [17] The court in Victory Park Ratepayers' Association aligned itself with the abovementioned conclusion reached in Protea Holdings Ltd,

'The legal point is that ongoing contempt of a Court order, by its very nature, is urgent.

...

I agree with the above-quoted statement of the law. I would add that it is not only the object of punishing a respondent to compel him or her to obey an order that renders contempt proceedings urgent: the public interest in the administration of justice and the vindication of the Constitution also render the ongoing failure or refusal to obey an order a matter of urgency. This, in my view, is the starting point: all matters in which an ongoing contempt of an order is brought to the attention of a Court must be dealt with as expeditiously as the circumstances and dictates of fairness allow.

*As one of the objects of contempt proceedings is by punishing the guilty party to compel the performance of the order, it seems to me that the element of urgency would be satisfied if in fact it was shown that the respondents were continuing to disregard the order of 3 August 1977. If this be so, the applicant is entitled, as a matter of urgency, to attempt to get the respondents to desist by the penalty referred to being imposed.'*³

- [18] More recently, however, the court in Volvo Financial Services Southern Africa (Pty) Ltd v Adamas Tkolose Trading CC (2023/067290) [2023] ZAGPJHC 846 (1 August 2023) expressly rejected the notion that any specific type of application could be said to be vested with inherent urgency. Dealing with a *rei vindicatio* claim it said this,

'Sometimes, Parliament sets out the circumstances in which a court ought to determine a specific type of matter urgently (see, for example, section 18(4)(iii) of the Superior Courts Act 10 of 2013 and section 5 of the Prevention of Illegal Eviction from, and Unlawful Occupation of Land Act 19 of 1998). In all other cases, urgency is determined not by the nature of the claim brought, but by the circumstances in which the applicant seeks its adjudication. Uniform Rule 6(12) says that a matter is urgent if the applicant will not be able to obtain "substantial redress at a hearing in due course" without at least some urgent relief.

³ At paragraphs 26 - 27

It follows that, whatever the nature of the claim, there must be some reason why the applicant will not be able to protect or advance their legal rights later, unless they are given specific relief now. Most of the time, the applicant requires no more than temporary protection from harm while the process of finally determining their rights progresses. Sometimes, though, a final determination of rights is necessary on an urgent basis because those rights will have little or no practical effect if the applicant has to wait weeks or months to vindicate them in the ordinary course.

There is, accordingly, no class of proceeding that enjoys inherent preference. Counsel appearing in urgent court would, in my view, do well to put the concept of “inherent urgency” out of their minds. There are, of course, some types of case that are more likely to be urgent than others. The nature of the prejudice an applicant will suffer if they are not afforded an urgent hearing is often linked to the kind of right being pursued. Spoliation is a classic example of this type of claim. Provided that the person spoliated acts promptly, the matter will nearly always be urgent. The urgency does not, though, arise from the nature of the case itself, but from the need to put right a recent and unlawful dispossession. The applicant comes to court because they wish to restore the ordinary state of affairs while a dispute about the right to possess a thing works itself out. Cases involving possible deprivations of life and liberty, threats to health, the loss of one’s home or some other basic essential of daily life, such as water or electricity, destruction of property, or even crippling commercial loss, are also likely to be urgent.’⁴

[19] Addressing contempt proceedings, the court made the following observations,

‘It is sometimes said that contempt of court proceedings are inherently urgent (see for example, Rustenburg Platinum Mines Limited v Lesojane (UM44/2022) [2022] ZANWHC 36 (21 June 2022) at paragraph 7 and Gauteng Boxing Promoters Association v Wysoke (22/6726) [2022] ZAGPJHC 18 (28 April 2022) paragraph 14). I do not think that can be true as a general proposition. I accept that the enforcement of a court order may well qualify as urgent, in situations where time is of the essence, but it seems to me that contempt proceedings entail the exercise of powers which often demand the kind of careful and lengthy consideration which is generally incompatible with urgent proceedings. For example, it cannot be sound judicial policy to commit

⁴ At paragraphs 4 - 6

*someone to prison, even where the committal is suspended, or to impose a fine, on an urgent basis, simply because that might be the only way to enforce a court order. There must, in addition, be some other feature of the case that renders it essential that the court order be instantly enforced, such that the penalties associated with contempt require immediate imposition.*⁵

[20] On the issue of urgency, the court concluded,

*'The fundamental point is that a matter is urgent because of the imminence and depth of harm that the applicant will suffer if relief is not given, not because of the category of right the applicant asserts.'*⁶

[21] The conclusion that a contempt application was not inherently urgent was also reached by the High Court in S.L.M v A.D.M (2025/187545) [2026] ZAECKMKHC 16 (12 February 2026).⁷

[22] Whatever the approach adopted by the High Court, the Labour Court does not require every application for contempt to be treated as an urgent application. Rule 58 regulates contempt proceedings in this court. It provides,

'(1) An application for contempt of court must be launched on an ex parte basis in motion court, where the applicant must seek an order that the respondent be ordered to appear at the court to show cause why it should not be held to be in contempt.

(2) An application which seeks for the court to make a finding that a party is in contempt of an order of the court must be made ex parte by way of a notice of motion accompanied by a founding affidavit. The notice of motion must seek an order in the following terms:

(a) that the respondent [chief executive officer / head of department / owner / proprietor / municipal manager of the respondent] (full names) appear in the Labour Court on (date) of (month) (year) at 10h00 to show cause why he/she should not be found guilty of contempt of court for failing to comply with the order of this court dated (date);

⁵ At paragraph 7

⁶ At paragraph 8

⁷ At paragraph 14

- (b) *that the respondent may explain its conduct by way of affidavit filed prior to the date of the hearing, although this will not excuse him/her from being present in court;*
 - (c) *that in the absence of providing an explanation to the satisfaction of the court, or failing to appear in court despite being properly served, the respondent(s) be found guilty of contempt;*
 - (d) *that the respondent(s) be incarcerated for such period as the court deems appropriate; or for the respondent(s) to be fined in an amount the court deems appropriate; or other alternative relief; and*
 - (e) *that service of the application and order be effected personally upon the respondent [chief executive officer / head of department / owner / proprietor / municipal manager of the respondent] and on the state attorney, if the matter concerns an organ of state.*
- (3) *The affidavit in support of the application must clearly set out how service of the relevant court order was effected upon the respondent; who accepted the service on behalf of the respondent; the responsible person (whom the applicant seeks the court to find to be in contempt) of the respondent was aware of the court order and is deliberately refusing to comply therewith; in what respect the respondent has failed to comply with the order and other allegations that will constitute the grounds for obtaining the order sought.*
- (4) *If a defence is raised by the respondent the court may either hear the matter on the date on which the respondent was ordered to appear in court, or postpone the matter.'*

[23] This process prescribes a number of steps which must be followed before the eventual hearing of the application, which may take place on the return date or at some later date. From this it is clear that the Rules of this court do not regard all applications for contempt as being inherently urgent, and do not require them to be treated as such.

[24] Urgency in contempt applications, as with any other type of application, necessitates compliance with Rule 38. In terms of this Rule an applicant who seeks to invoke its provisions is required to demonstrate the reasons for urgency and why urgent relief is necessary.

- [25] In Maqubela v SA Graduates Development Association and Others (2014) 35 ILJ 2479 (LC) this court explained the issues relevant to the determination of urgency,

*'Whether a matter is urgent involves two considerations. The first is whether the reasons that make the matter urgent have been set out and secondly whether the applicant seeking relief will not obtain substantial relief at a later stage. In all instances where urgency is alleged, the applicant must satisfy the court that indeed the application is urgent. Thus, it is required of the applicant adequately to set out in his or her founding affidavit the reasons for urgency, and to give cogent reasons why urgent relief is necessary.'*⁸

- [26] The first to fourth respondents also referred this court is previous decision in Mojaki v Ngaka Modiri Molema District Municipality and Others (2015) 36 ILJ 1331 (LC)⁹ in which it referred with approval to the following dictum from the judgment of East Rock Trading 7 (Pty) Ltd and Another v Eagle Valley Granite (Pty) Ltd and Others [2012] JOL 28244 (GSJ),

*'... An applicant has to set forth explicitly the circumstances which he avers render the matter urgent. More importantly, the applicant must state the reasons why he claims that he cannot be afforded substantial redress at a hearing in due course. The question of whether a matter is sufficiently urgent to be enrolled and heard as an urgent application is underpinned by the issue of substantial redress in an application in due course. The rules allow the court to come to the assistance of a litigant if the latter were to wait for the normal course laid down by the rules it will not obtain substantial redress.'*¹⁰

- [27] The effect of the above is that a litigant seeking this court's urgent assistance is required to demonstrate, by way of a full and substantiated explanation, that (1) it itself has acted with sufficient alacrity so as to negate any possibility that the situation of urgency is not of its own making, and (2) that it will be unable to obtain substantial redress in due course in the event that the relief sought is not

⁸ At paragraph 32

⁹ At paragraph 6

¹⁰ At paragraph 6

granted. Above and beyond this, in the exercise of its judicial discretion and in consideration of any other factor it deems relevant, this court must be satisfied that the interests of justice requires it to determine the matter on an urgent basis.

[28] The first of the applicants' contentions, that this court has a duty to prevent unlawful conduct is intrinsically linked to the assertion that contempt applications are inherently urgent. The applicant in every contempt application will, by virtue of the nature of contempt, be claiming that the respondent is acting unlawfully. On the question of this court's obligations, whilst the principle that this court has a duty to prevent unlawful conduct cannot be faulted, the issue remains that it is only in circumstances in which the requirements of Rule 38 have been met that it is required to do so on an urgent basis.

[29] As regards the issues of both transfer and loss of employment, the applicants' case is not entirely clear.

[30] The second and third of the orders granted on 30 April 2026 read as follows,

- '2. It is declared that the termination of the 'Conditions of Contract for the Design, Construction, Operation, Maintenance and Financing of the prison at Bloemfontein' ('Concession Contract') concluded between the Department of Correctional Services and the Bloemfontein Correctional Contracts (Pty) Ltd, and the consequent termination of the Operating Sub-Contract concluded between the G4S Correction Services (Bloemfontein) (RF) (Pty) Ltd and the Bloemfontein Correctional Contracts (Pty) Ltd, and the assumption of control and responsibility for the operation and maintenance of the Mangaung Correctional Centre by the Department of Correctional Services effective from 1 July 2026 constitutes a transfer in terms of section 197 of the Labour Relations Act 66 of 1995.*
- 3. G4S Correction Services (Bloemfontein) (RF) (Pty) Ltd's employees will transfer automatically to the Department of Correctional Services upon termination of the Concession Contract and Operating Sub-Contract.'*

[31] In his judgment Snyman AJ recorded that G4S had commenced a retrenchment process on 11 May 2026 and, that at the time that matter was

argued, the retrenchment process was underway. Given that the contract between the first respondent and, indirectly, G4S was to terminate on 30 June 2026 and G4S sought, in anticipation thereof to divest itself of its employees by way of a retrenchment process, it appears that they may well already have been dismissed.

- [32] Whether or not certain of the applicant employees have already been dismissed, or will be dismissed by G4S in the imminent future, neither eventuality will ‘defeat’ their right to be transferred in terms of the 30 April 2026 order. The order of 30 April 2026 will not dissipate as a result of the first respondent not having taken the applicant employees into service on 1 July 2026; that order will remain enforceable in perpetuity until and unless set aside by way of appeal. This much was observed by Snyman AJ in his judgment of 30 June 2026,

*‘Nonetheless, and if the appeal is ultimately unsuccessful, then the Department would still have to take over those employees effective 1 July 2026, despite them having been retrenched by G4S, ...’*¹¹

- [33] The applicants’ case is further complicated by their assertions both that the first respondent has not transferred the applicant employees, but also that the first respondent has taken some of the applicant employees into employment,

‘The matter involves about 500 employees who are armed with a Court order that says they must be transferred automatically to the DCS come 01 July 2026. The date of 01 July 2026 passed without the second applicants having been automatically transferred as ordered by the April order.

*The DCS has already employed some of the people on 12 months contract instead of complying with the April order.’*¹²

¹¹ At paragraph 42

¹² At paragraphs 13.4.1 – 13.4.2

- [34] Although the applicants alleged that the employment by the first respondent of the unspecified number of applicant employees was not in compliance with the 30 April 2026 order, on their own version a number of them have been employed by the first respondent. S197(3)(a) stipulates that s197(2) is complied with if the employees in question are transferred on *'terms and conditions that are on the whole not less favourable to the employees than those on which they were employed by the old employer.'* Beyond having stated their own belief that such employment was not in compliance with the 30 April 2026 order, the applicants placed no evidence before this court which could lead it to find that such terms and conditions under are *'on the whole less favourable'* than those which previously governed their employment by G4S.
- [35] The further ground upon which the applicants relied in substantiation of the issue of urgency related to the income the applicant employees stand to lose as a result of being obliged to await a hearing in due course. Given that an unspecified number of them have taken up employment with the first respondent, albeit on fixed term contracts of one year duration, none of those applicant employees stand to suffer the potential loss of income in the foreseeable future.
- [36] To the extent that there may be individual applicants who do stand to suffer the loss of their incomes, whilst this court is not unsympathetic to the consequences of such a state of affairs, it has been restated through many judgements of this and other courts that financial issues do not, without more, give rise to grounds for urgency. Our courts have considered the question of urgency when premised exclusively on issues of financial hardship on a number of occasions. The principle established is that financial hardship in and of itself does not and cannot establish grounds of urgency.
- [37] In Turro and Others v Taxaid (Pty) Ltd [2000] 21 ILJ 2719 (LC) this court considered the issue and, with reference to previously decided cases on the point stated the following,

‘... Financial hardship and loss of income are not per se grounds for urgency and the applicants are required to show extremely cogent grounds for urgency. [cases cited] In the aforesaid cases it was held that only where the detrimental consequence of unilateral conduct cannot be addressed by an award after the arbitration or adjudication has taken place, urgent relief may be granted. The applicants have not shown why their case is exceptional. It must be borne in mind that in all cases of lay-off and dismissal financial hardship follows and if the applicants’ argument is to be accepted, then all cases of dismissal would be dealt with by way of urgent application and on affidavit which is clearly not what was intended by the drafters of the Labour Relations Act.’¹³

[38] Similar conclusions have been reached in numerous other cases, for example Matshidiso v Chief Executive Officer – South African Social Security Agency and Another (J1175/2022) ZALCJHB 365 (29 September 2022), Jonker v Wireless Payment Systems CC (2010) 31 ILJ 381 (LC), Democratic Nursing Organization of South Africa obo Ramaroane v Member of the Executive Council for Health, Gauteng Province and Another (2019) 40 ILJ 2533 (LC), and Munthali v Passenger Rail Agency of SA (2012) 42 ILJ 1245 (LC).

[39] Albeit decided with reference to a s18(3) application in relation to the immediate execution of an order granted in favour of the employees in terms of s197 pending an appeal, the rationale of the Constitutional Court in rejecting the proposition that non-payment of remuneration could constitute an exceptional circumstances is equally apposite to the effect of non-payment of salaries on the question of urgency. In Road Traffic Management Corporation v Tasima (Pty) Limited; Tasima (Pty) Limited v Road Traffic Management Corporation (2020) 41 ILJ 2349 (CC) the position was stated to be this,

‘In any event, the non-payment of wages or salaries pending finalisation of an appeal cannot constitute exceptional circumstances for the purposes of section 18(3) without bringing almost every labour matter within the ambit of the section. It is impossible to find that Tasima’s employees’ position pending appeal must be protected, without finding that this must be the case in almost every labour dispute. Differently put, the

¹³ At paragraph 10

*exceptional circumstances that section 18(3) requires, ordinarily should not be located purely in the non-payment of wages or salaries pending appeal.*¹⁴

[40] Obviously alive to the limitations placed on financial considerations as grounds to found urgency, the applicants alleged that by waiting for the application to be dealt with in the ordinary course the applicant employees would lose the opportunity to render services to the first respondent, which loss cannot be repaired by any future order granted in due course as they would in the meantime have lost opportunities for promotions and education, and to study towards any '*skill within the DCS*'. That assertion was both unsubstantiated and speculative as no evidence was placed before this court in support thereof in relation to even one of the applicant employees. Mere speculation cannot constitute a basis upon which an application can be elevated to one of urgency.

[41] In consideration of the above, there is no apparent reason why the applicants found it necessary to approach this court on an urgent basis. If one or more of the first respondent's officials are indeed in contempt, nothing precludes such a finding being made in due course. Equally, the applicant employees' right to enforce the order of 30 April 2026 will not disappear in time. Conversely in both cases, no consequences that the law recognises as urgent will ensue in the event that findings in relation to either aspect is not made now. The contempt application will be struck from the roll for lack of urgency.

Analysis: S18(3) Application

[42] The applicants made it clear that this application was only to be determined in the event that this court did not find in its favour in the contempt application. As the contempt application will be struck from the roll for lack of urgency, its merits remain to be determined in due course. This being the case, it follows

¹⁴ At paragraph 131

that the s18(3) application must be adjourned *sine die*, pending the eventual outcome of the contempt application.

Costs

- [43] The first to fourth respondents asked for a punitive costs order in the event that the contempt application be struck from the roll for lack of urgency.
- [44] They were correct, not only that the application lacked urgency but that the time periods chosen by the applicants were wholly unreasonable. The applicants launched both applications on 1 July 2026 in which the first to fourth respondents were called to deliver answering affidavits by 6 July 2026. This, in effect, afforded them two court days to prepare their responses to both applications, which were enrolled on 9 July 2026.
- [45] The applications were launched in the face of the judgment of Snyman AJ who expressed the *obiter* view that to do so would be inappropriate. Moreover, in dismissing the first respondent's application to stay the 30 April 2026 order, he did so on the basis of his understanding that there was no real risk of enforcement of the 30 April 2026 order. Although that application appears to have been decided without reference to the applicants' affidavits, it is difficult to imagine that those affidavits would have been excluded from consideration if they had unequivocally expressed the applicants' intention to enforce the 30 April 2026 order.
- [46] In circumstances in which the grounds upon which the applicants relied to found urgency have historically and repeatedly been rejected by this court, and the time afforded to the first to fourth respondents to mount a defence to the applicants' contempt application was unnecessarily and unreasonably curtailed,

the applicants' motivations in having initiated the contempt application on an urgent basis must be called into question.

[47] This court can conceive of no reasons, as a matter of either law or fairness, why the first to fourth respondents (funded as they are by the taxpayer) ought not to be awarded their costs on an attorney and client scale. Despite the first to fourth respondents having asked that such costs order be made *de bonis propriis*, there is no clear basis for such an order to be made.

Order

1. The contempt of court application under 2026-154789 is struck from the roll for lack of urgency.
2. The section 18(3) application under 2026-154790 is adjourned *sine die*, pending the outcome of the contempt of court application under 2026-154789.
3. The applicants are ordered to pay the first to fourth respondents' costs under 2026-154789 on an attorney and client scale, such costs to include the costs of two counsel, where employed.

K. ALLEN-YAMAN J

Judge of the Labour Court of South Africa

Appearances

Applicants (in both case numbers 2026-154789 and 2026-154790):

Mr X Mofokeng, instructed by Mutsengi Attorneys Inc

First to Fourth Respondents (under case number 2026-154789) and First and Second Respondents (under case number 2026-154790):

Mr G Shakoane SC with Mr M Mpahlwa, instructed by Vilikazi Tau Inc

LABOUR COURT