

REPUBLIC OF SOUTH AFRICA



IN THE HIGH COURT OF SOUTH AFRICA
LIMPOPO DIVISION, POLOKWANE

- (1) REPORTABLE: YES/NO
(2) OF INTEREST TO THE JUDGES: YES/NO
(3) REVISED.

CASE NO: 137854/2026

DATE: 11/08/2026

SIGNATURE..



In the matter between:

MINISTER OF POLICE

Applicant

And

MOHLATLEGO TRADING ENTERPRISE CC

First Respondent

MUHLE UNLIMITED DESIGN

Second Respondent

SHERIFF OF THE HIGH COURT

Third Respondent

CENTRAL PRETORIA

Delivered: This judgment is handed down electronically by circulation to the parties through their legal representatives' email addresses. The date for the hand-down is deemed to be **11 AUGUST 2026**.

JUDGMENT

Makoti AJ

Introduction

- [1] This is an application in which the **Minister of Police** (the Minister) is the applicant, facing an execution of a judgment debt that is subject to collection by the sheriff, Pretoria Central. **Mohlatlego Trading Enterprises CC** (Mohlatlego), the judgment creditor, is one of the respondents in this application. The other respondents are Muhle Unlimited Designs and the sheriff for the area of Pretoria Central. Mohlatlego opposes the application.
- [2] The Minister prays that the application be heard on an urgent basis in terms of Rule 6(12)(b) of the Uniform Rules of Court. Urgency is opposed by Mohlatlego. This issue will form part of the consideration that this Court will take of the matter in its entirety. The full spectrum of the issues to be traversed in this application are the following:
- [2.1] urgency;
 - [2.2] whether the writ of execution should be suspended or stayed; and
 - [2.3] the question of costs.
- [3] It is the Minister's case that the relief sought in this case should be granted pending the final determination of a rescission application that has been pending since 11 December 2023.

Whether the application is urgent

- [4] Urgency is to be viewed primarily on the averments that are made by the

Minister. Two considerations are paramount. The first concerns the facts that the Minister avers render the application urgent. The second consideration interrogates the question of whether the Minister will have substantial redress if the matter were to be heard on a date in the future.

- [5] A writ of execution was issued against the Minister on 4 May 2026. It was served at the provincial offices of the South African Police Services (SAPS) in Polokwane on 5 May 2026. On the latter date the Sheriff, acting as directed by the writ, attached 400 laptop computers, 400 desktop computers, and 400 printers belonging to the SAPS.
- [6] The writ axiomatically instructs the Sheriff to attach and remove movable assets of the SAPS and to raise from them an amount of **R1,158,096.27** (one million one hundred and fifty-eight thousand ninety-six rand and twenty-seven cents). Once that is achieved, the Sheriff is required to pay over the said amount plus costs to the judgment creditor.
- [7] The amount mentioned above was awarded to Mohlatlego in terms of an order that was granted against the Minister by Bressler AJ on 13 December 2023. Subsequently, on 27 February 2026, Masilo AJ granted a variation of the order on the following terms:
 - “2A. That the First Respondent is ordered to within seven days of the date of this order, pay the sum of R1,158,096.27 (ONE MILLION ONE HUNDRED AND FIFTY EIGHT THOUSAND NINETY SIX RAND AND TWENTY SEVEN CENTS) to the Applicant being interest on the amount contained in the final payment certificate calculated at the rate of 160% from the date when the final payment was due to the date of full and final payment.”**
- [8] Based on the varied order, Mohlatlego caused the writ of execution to be issued against movable properties belonging to the SAPS. It is alleged on behalf of the Minister that the officials of the SAPS were advised on 9 June

2026 that Mohlatlego had every intention to proceed with the execution processes.

- [9] On 21 May 2026, Mr. Malatji PT, an attorney of the State Attorneys based in Polokwane representing the Minister, addressed a letter to Mohlatlego's lawyers and requested their undertaking to not proceed with the execution of the SAPS properties. The letter threatened an urgent application if the undertaking was not provided. To summarise the request, the following deserves mention:

[9.1] The State Attorneys had instructions to institute rescission application on behalf of the Minister;

[9.2] Because of that, the Minister required an undertaking to be given that, pending the determination of the application to rescind the relevant order, execution be suspended; and

[9.3] That the Minister will be forced to approach the court on an urgent basis to suspend the writ or to stay the execution against SAPS property.

- [10] Moletsane PT Attorneys, on behalf of Mohlatlego, addressed a response letter to the Office of the State Attorneys on 26 May 2026 and declined to provide the sought undertaking. By then, it would seem, the question of whether Mohlatlego was to suspend the execution had been made clear. Despite that fact having been made known, the Minister's application was not forthcoming until mid-June 2026. The contention on behalf of Mohlatlego was that, based on that consideration, urgency was self-created and that the application should be struck from the roll.

- [11] The case made for the Minister is that the sale in execution of the attached goods will affect the operation of the SAPS affairs. Amongst others, the Minister mentioned what was then an impending March and March campaign as an

example of how policing matters would be affected by the sale in execution of the attached movable assets.

- [12] The law on urgency is settled. It requires an applicant who approaches court on that basis to explicitly set out the facts why its application is urgent.¹ This entails a consideration of several factors. First, such an applicant must talk about the impending harm that is likely to happen if the application is not heard urgently. Second, the applicant must tell the court, on reasonable grounds, why it will not have substantial redress if the application were to be heard on a future date. Also, whether the applicant has acted with the promptness that is called for by the situation.²
- [13] A party that creates its own urgency by, for instance, failure to act at the first opportunity may face a court that is reluctant to allow it to jump the queue. The court is not obliged, in such circumstances, to afford the matter its priority.³ That a party has created its own urgency is not an ultimate impediment for the court exercising its discretion to still treat the case as urgent.⁴ A court will always consider the matter holistically and answer the question of whether there would be substantial redress for an applicant if urgency is denied.
- [14] While there may be room to criticize the Minister for acting inefficiently in approaching court, that is not sufficient reason for purposes of this case to slam the door on his face. On the other hand, where there is in fact substantial redress available in the ordinary course, urgent relief should be declined.⁵

¹ African National Congress v Umkhonto weSizwe Party [2024] 3 All SA 137 (KZD) para 17.

² Nelson Mandela Metropolitan Municipality v Greyvenouw CC 2004 (2) SA 81 (SE) para 37 – 40.

³ E.E v T.C.E (113234/23) [2025] ZAGPPHC 492 (16 May 2025) para [11].

⁴ South African Informal Traders Forum and Others v City of Johannesburg and Others; South African National Traders Retail Association v City of Johannesburg and Others (CCT 173/13 ; CCT 174/14) [2014] ZACC 8; 2014 (6) BCLR 726 (CC); 2014 (4) SA 371 (CC) (4 April 2014).

⁵ Commissioner for South African Revenue Service v Hawker Air Services (Pty) Ltd; Commissioner for South African Revenue Service v Hawker Aviation Services Partnership and Others (379/05) [2006] ZASCA 51; 2006 (4) SA 292 (SCA); [2006] 2 All SA 565 (SCA); 68 SATC 141 (31 March 2006) para [9].

[15] On the facts of this case I am satisfied that the execution of the attached movable assets will disrupt police operations. Also, that the Minister and the SAPS will have no substantial redress in the future if the application were to follow ordinary processes.

Whether the writ should be suspended or execution should

[16] I have already touched on some of the facts which led to this application. The chief ground is the issuance of a writ of execution that is based on the order granted by Masilo AJ on 27 February 2026. That order, properly construed, varied terms of an already existing order. A new paragraph was inserted into an existing order, as paragraph 2A. As indicated above, Masilo AJ varied an order that was granted on 13 December 2023 by Bressler AJ, dealing only with the aspect of interest. I have quoted the terms of the varied order earlier and do not repeat it here.

[17] On 13 December 2023, the court granted orders that read *inter alia* as follows:

- “1. The Applicant is to provide the First Respondent with the signed final settlement account within five (5) days of the date of this order.**
- 2. The First Respondent is to make payment of the amount contained in the final statement of account on or before 19 January 2024.**
- 3. ...”**

[18] It was to this order that Masilo AJ inserted what has become paragraph 2A to the order of 13 December 2023. In so doing, he awarded to Mohlatlego interest in the amount of R1,158,096.27 that I mentioned earlier. Before that order, of 13 December 2023, there had been at least two previous orders. The first was granted by Ngobeni J on _ August 2023. That order was followed by the one by Phatudi J on 17 October 2023.

[19] On 17 October 2023, the court ordered the parties to convene a round table meeting before 31 October 2023 to discuss the implementation of the order that

was granted by Ngobeni J on 10 August 2023. Additionally, the Minister was directed to complete the project status report of the works performed by Mohlatlego (as contractor). The Minister was also ordered to, upon completing the report, pay the amount reflected in the status report, if any, within a period of seven (7) days from the date on which a final payment certificate was to be issued, including payment of the interest that was to be calculated at the rate of 160%.

[20] After the 17 October 2023 order came the order by Bressler AJ, to which the insertion of paragraph 2A was later added.

[21] The Minister has applied for rescission of the order of 10 August 2023 that was granted by Ngobeni AJ. In terms of that order Mohlatlego was restored as a consultant for a construction project in the SAPS. Additionally, Mohlatlego was authorised to issue a final payment certificate to the Minister. Payment in respect of the certificate was in terms of the order to be made within 30 days of the date of the payment certificate. Payment to include interest of 160% that would be payable within 90 days of determination.

[22] As of the date of the hearing of this matter, the application for rescission had been heard and was pending an outcome. The existence of that application is a matter of common cause between the parties. Where they part company is on the question of whether the rescission application has implications for the present case. The respondent's contention is that the writ of execution was issued based on the order by Masilo AJ and that it has nothing or little to do with the order of Ngobeni J.

[23] As I see things, the order by Ngobeni J is the root on which all the other orders are anchored. It specifically directed the parties to perform acts that would lead to the determination of the amount payable to Mohlatlego. It is only once that amount is determined that an interest of 160% can be determined. The order of

Masilo AJ accepted a base value in respect of which he determined the amount of interest payable to Mohlatlego. One need not be too concerned about that order, as there were intervening events, including the order of Bressler AJ.

[24] As I understand, too, the Minister disputes indebtedness to Mohlatlego. His case is that Mohlatlego was fully paid the amount that was due and payable in terms of the order of 13 December 2023. The case is that the SAPS complied with the order on 4 January 2024, way before the date set out in that court order. The following events occurred after the order was granted:

[24.1] On 13 December 2023, Mohlatlego issued a final payment certificate; and

[24.2] Then, on 4 January 2024, the SAPS paid Mohlatlego the full amount as invoiced.

[25] Quite apart from the issue of payment of the final payment certificate, the Minister's case also questions the interest rate that was applied to the amount that was payable to Mohlatlego. He is disputing the source contractual document on which the computation of the interest rate was made. That means, in my view, that the underlying causa upon which the contested amount is based remains in dispute.

The applicable legal principles

[26] Rule 45A of the Uniform Rules of Court empowers the court to suspend the execution of any order for such period as it may deem fit. It affords the court a wide discretion and imposes no procedural or other limitations or fetters on the power that it confers.

[27] An applicant seeking a stay of execution is ordinarily required to satisfy the requirements that are applicable for interim interdicts, except where an injustice

is likely to occur if the stay is not granted. Recently, in *Dalrymple*,⁶ Mayosi AJ posited the law that is applicable for similar questions as follows:

“[20] The law is clear that this Court will grant a stay of execution where the underlying *causa* of the judgment debt is being disputed. Where the *causa* for the impugned execution is a judgment or an order, and the order is placed in dispute because an application for rescission has been brought, grounds may well exist for a court to exercise its discretion in favour of granting a stay in execution.”

[27] But the law had crystallized even long before *Dalrymple*. The general principles for the granting of a stay in execution were already canvassed by the court in one of the leading authorities on the subject, *Gois t/a Shakespeare’s Pub v Van Zyl*,⁷ in which they were summarised as follows:

[27.1] A court will grant a stay of execution where real and substantial justice requires it or where an injustice would otherwise result.

[27.2] The court will be guided by considering the factors usually applicable to interim interdicts, except where the applicant is not asserting a right, but attempting to avert injustice.

[27.3] When deciding to grant a stay of execution, the court must be satisfied that:

- [i] the applicant has a well-grounded apprehension that the execution is taking place at the instance of the respondent; and
- [ii] irreparable harm will likely result if execution is not stayed and the applicant ultimately succeeds in establishing a clear right.

[27.4] Irreparable harm will invariably result if there is a possibility that the underlying *causa* may ultimately be removed, i.e., where the

⁶ *Dalrymple v Riach and Others* (11920/2020) [2026] ZAWCHC 87; [2026] 2 All SA 63 (WCC) (2 March 2026).

⁷ 2011 (1) SA 148 (LC) at 155H-156B.

underlying *causa* is the subject matter of an ongoing dispute between the parties.

[27.5] For this kind of application the court is not concerned with the merits of the underlying dispute—the sole inquiry simply being whether the *causa* is in dispute.

[28] Furthermore, in *Van Rensburg and Another NNO v Naidoo and Others*⁸ it was held that:

“A court will grant a stay of execution in terms of Uniform Rule 45 where the underlying causa of the judgment debt is being disputed or no longer exists or when an attempt is made to use levying of execution for ulterior purposes. As a general rule, a court acting in terms of this rule will suspend the execution of an order where real and substantial justice compels such action.”

[29] Authorities have confirmed the discretionary powers of the court in dealing with an application of this nature. Invoking this court’s discretion is the undeniable fact that there is an impending execution and the respondent has refused to suspend it pending final determination of the rescission application. Also, it is difficult to ignore the issues concerning the determination of applicable interest.

[30] The application for rescission has already been heard, and the parties are awaiting judgment. It will not, in my view, take an overly long period before it is delivered and the natural consequence that will flow from the judgment will result.

[32] For the respondent, it was also argued that the court should refuse to entertain the application because the Minister has not purged its contempt of the order as granted by Masilo AJ. The contention misses the point of this application, which is about suspending the execution in respect of the applicable amount.

⁸ 2011 (4) SA 149 (SCA).

As I understand it, the amount awarded in the said order is being disputed. I do not agree that the Minister should be non-suited.

[33] In my observation of what lies before me, the Minister has met the threshold for the relief sought.

Court's order

[34] The following order is made:

- “[a] The application is urgent in accordance with Rule 6(12)(b) of the Uniform Rules of Court.
- [b] The writ of execution is stayed pending the final determination of the application for rescission of judgment.
- [e] The first respondent is ordered to pay the costs of this application on a party-and-party scale “A”.



MOKGERWA MAKOTI
ACTING JUDGE OF THE HIGH COURT
LIMPOPO DIVISION, POLOKWANE

APPEARANCES

FOR APPLICANTS

: **T TSHITEREKE**
OFFICE OF THE STATE ATTORNEY
POLOKWANE

FOR FIRST RESPONDENTS

: **VAN SCHALKWYK**
MOLETSANE PN ATTORNEYS
c/o TT KGOMOKABOYA ATTORNEYS
POLOKWANE

HEARD ON : **23 JUNE 2026**
DELIVERED ON : **11 AUGUST 2026**

POLOKWANE HIGH COURT