



**IN THE HIGH COURT OF SOUTH AFRICA
GAUTENG DIVISION, PRETORIA**

Case number: 114297/2026

(1) REPORTABLE: NO

(2) OF INTEREST TO OTHER JUDGES: NO

(3) REVISED: NO

SIGNATURE

DATE 21/8/2026

In the matter between:

WEIDEMAN, NATASHA

Applicant

(ID NO.: 9[...])

and

VIKING MEDICAL & SURGICAL (PTY) LTD

First Respondent

(Registration No.: 1991/004469/07)

VIKING BCT (PTY) LTD

Second Respondent

(Registration No.: 2016/240499/07)

This judgment has been delivered by uploading it to the Court online digital data base of the Gauteng Division, Pretoria and by email to the attorneys of record of the parties. The date of the delivery of the judgment is deemed to be 21 August 2026

JUDGMENT

MAKHOB A J

[1] Judgment was granted against the Applicant on the 10 June 2026. She filed the application for leave to appeal with condonation for its late filing.

[2] The Respondents oppose both, and having bring their own application under section 18(3) of the Superior Courts Act 10 of 2013 to execute the judgment.

[3] The application for leave to appeal was due within fifteen court days, so the dies expired on or about 2 July 2026. If it was filed on the 23 July 2026 which is three weeks late.

[4] As reasons for the delay the applicant states that she did not have the finances to litigate further, she also had outstanding legal accounts arising from the urgent proceedings which are substantial.

[5] She was informed by her attorneys that, should she pursue the appeal she would need funds to finance the appeal. She could not afford to litigate, not that she accepted the correctness of the judgment.

[6] In opposing the application for late condonation and appeal, the Respondents gave the following reasons: -

- 6.1. The Applicant has perempted any right of appeal by electing to comply with the order.
- 6.2. The explanation for the delay is not bona fide. She does not state the amount required to lodge the appeal, when it was required.
- 6.3. The founding affidavit is internally irreconcilable with the case the Applicant was advancing in the very same week.
- 6.4. The appeal has no reasonable prospect of success.

[7] An application for condonation should be brought without delay, and as soon as possible, once the applicant realises he/she/it has not complied without a rule of court.

[8] In this regard, in the decision of **Mulaudzi v Old Mutual Life Insurance Co (south African) Ltd and Others. National Director of Public Prosecutions and Another V Mulaudzi**¹ the Supreme Court of Appeal *inter alia* held that:

¹ 2017 (6) SA 90 (SCA)

“[26] *What calls for an explanation is not only the delay in the timeous prosecution of the appeal, but also the delay in seeking condonation. An appellant should, whenever he realises that he has not complied with a rule of this court, apply for condonation without delay. A full, detailed and accurate account of the causes of the delay and their effects must be furnished so as to enable the Court to understand clearly the reasons and to assess the responsibility.*”

The SCA proceeded to find as follows:

“[26] *...[F]actors which usually weigh in this court in considering an application for condonation include the degree of non-compliance, the explanation therefor, the importance of the case, a respondent’s interest in the finality of the judgment of the court below, the convenience of this court and the avoidance of unnecessary delay in the administration of justice.*”

[9] The use of the word “may” in Rule 27(1) denotes that the court has a discretion to grant or not grant condonation. In the *United Plant Hire (Pty) Ltd V Hills and Others*² 1976 1 SA 717 (A) at 720E-F Holmes, JA said:

“It is well settled that, in considering applications for condonation, the court has a discretion, to be exercised judicially upon a consideration of all of the facts; and that in essence it is question of fairness to both sides. In this enquiry, relevant considerations may include the degree of non-compliance with the Rules, the explanation therefore, the prospects of success on appeal, the importance of the case, the respondent’s interest in the finality of his judgment, the convenience of the Court and the avoidance of unnecessary delay in the administration of Justice.”

² 1976 1 SA 717 (A) at 720E-F

[10] In my view, the Applicant was in full compliance with the order immediately after the judgment on the 10th of June 2026. I am satisfied that the Applicant has perempted her right of appeal.

[11] It is further my view that, there are no sound, rational basis for the delay and it is neither full nor bona fide. The contemplated appeal has no reasonable prospect of success.

[12] Counsel for the Applicant argued that section 18 application has not been discharged and the application must be dismissed with costs.

[13] Counsel for the Respondent submitted that if the section 18(3) application is heard only in the ordinary course, the greater part of the restraint period will have expired before the enforceability of the order is determined.

[14] The restraint expires on 30 April 2027, and the balance of its term is now measured in months rather than years.

[15] In my view no condonation application, application for leave to appeal, petition to the Supreme Court of Appeal and eventual appeal can realistically be concluded before 30 April 2027.

[16] If the automatic suspension is left undisturbed, the entire remaining period of the restraint will be exhausted before the Respondents are able to enforce their rights.

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

17.1. The application for condonation is dismissed with costs on scale B.

17.2. It is ordered in terms of section 18(1) read with section 18(3) of the Superior Courts Act 10 of 2013, that the operation and execution of the Judgment and Orders granted by this Court on 10 June 2026 are not suspended and shall remain in full force and effect pending the outcome of any other appeal proceedings.

17.3. Costs of the application to be paid by the applicant on Scale B

D MAKHOBA
JUDGE OF THE HIGH COURT
GAUTENG DIVISION, PRETORIA

Date of hearing: 19 August 2026

Date of Judgment: 21 August 2026

For the Applicant

Adv AC Diamond

Instructed by Jenkins Attorneys

For the First and Second Respondent's

Adv FJ Labuschagne

Instructed by Adams and Adams