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**IN THE HIGH COURT OF SOUTH AFRICA
MPUMALANGA DIVISION, MIDDELBURG**

CASE NO: 2026-155432

(1) REPORTABLE: **NO**

(2) OF INTEREST TO OTHER JUDGES: **NO**

(3) REVISED **YES/NO**

DATE 07/09/2026

SIGNATURE NSIBANDE AJ

In the matter between:

ZAMAGHOBHOLI t/a ZAMAGOBHOLI CC

(Registration Number 2006/205172/23)

APPLICANT

and

FIRST RANDBANK LIMITED t/a WESBANK

FIRST RESPONDENT

**MR AKKER, ACTING SHERIFF OF THE
HIGH COURT: WITBANK EMALAHLENI AREA**

SECOND RESPONDENT

In re:

FIRST RAND BANK LIMITED t/a WESBANK

PLAINTIFF

and

ZAMAGHOBHOLI TRADING t/a ZAMAGOBHOLI

TRADING CC,

(Registration Number 2006/205172/23)

DEFENDANT

JUDGMENT

Nsibande AJ

Introduction

[1] This is an application brought on an urgent basis wherein the applicant seeks, *inter alia*, an order for a stay of execution of a warrant of repossession of goods in respect of a default judgment granted by the registrar on 5 August 2025 under case numbers 252/2025 and 184723/2025.

[2] The application is divided into two parts: Part A, which deals with interdicting the execution of the judgment of 5 August 2025 as well as interdicting the Sheriff of the Court from repossessing the following goods:

2.1 A Ford Ranger 2.0D bi-turbo Wildtrack 4X4 A/T D/C P/H with engine number Y[...] and chassis number A[...]; and

2.2 A Scania G460 LA6X4MSA ADR T/T C/C with engine number D[...] and chassis number 9[...].

[3] Part B deals with the application for the rescission of the default judgment granted on 5 August 2025. This part is not before the court.

Facts

[4] On 5 August 2025, the registrar of this Court granted a default judgment in favour of the first respondent.

[5] On 26 August 2026, the registrar granted a warrant for repossession of the goods as indicated above.

[6] On 7 May 2026, the Sheriff of the Court, Witbank, attended the premises of the applicant with the intention to execute the above orders. The applicant had some engagements with the Sheriff of the Court, and eventually the Sheriff agreed to allow the applicant to make enquiries regarding the execution. This was after the applicant had indicated to the Sheriff that she was seeing these court documents for the first time. The Sheriff advised the applicant that he would be returning soon to execute the orders.

Issues

[7] The applicant subsequently issued these proceedings on an urgent basis. The applicant's contention in the main is directed at challenging the default judgment granted on 5 August 2025. The applicant contends that this judgment is not a court order capable of being executed by the Sheriff of the court. The applicant has raised numerous issues challenging the validity of the default judgment.

[8] The applicant submitted that, in terms of Rule 31(5) of the Uniform Rules of Court, the registrar, when faced with an application for default judgement, has six options available to him or her in granting a valid and/or proper court order in terms of Rule 31(5)(b), namely: (i) may grant the judgement as requested; (ii) may grant judgement for part of the claim only, or on amended terms; (iii) may refuse judgement wholly or in part; (iv) may postpone the application for judgement on such terms as he may consider just; (v) may request or receive oral or written submissions; or (vi) may require the matter to be set down for hearing in an open court.

[9] The applicant further contends that nowhere in the order does the registrar indicate that she is granting a particular order or relief. It was submitted that the

registrar simply recited what the first respondent sought from the court, but did not write what the court said about the request, prayers or relief sought by the first respondent.

[10] In essence, the applicant disputes that the default judgment granted on 5 August 2025 is a court order. The applicant's argument is that there is nowhere in the document where it is endorsed that an order has been granted. In the absence of the mandatory endorsement which must appear on the document, the document cannot be called a court order.

[11] The first respondent submitted that the default judgment granted on 5 August 2025 is a valid order capable of execution by the Sheriff of the Court. As a result of this order, the registrar granted a warrant of repossession on 26 August 2026.

[12] It is worth indicating at this point that the first respondent raised two points *in limine* in this application. It first challenged the urgency of the application and also submitted that the relief sought is incompetent.

Urgency

[13] The applicant stated that the matter is urgent, in that on 7 May 2026, at its premises in Witbank, the Sheriff of this court attempted to execute an order of this court dated 5 August 2025, which was accompanied by a warrant of repossession issued on 26 August 2025. The applicant submitted that it was the first time seeing such a document, the court process against the goods, was never at any stage presented to her. It had never seen any court documents relating to the goods. As a result, she approached the office of the registrar to enquire about the court proceedings, in particular whether the order had been obtained lawfully. According to the applicant, after visiting the office of the registrar, she was informed that there was no such order on record. She communicated this information to her legal representative.

[14] The applicant further submitted that she then approached the office of the registrar to file for leave to appeal the order. The registrar refused to accept the

leave to appeal application, and this refusal triggered the urgency of the matter. This occurred on 12 June 2026, when the registrar refused to accept the filing of an application for leave to appeal and advised that the judgment was a default judgment granted in terms of rule 31(5) and was not appealable.

[15] The legal test for urgency is found in rule 6(12) of the Uniform Rules of Court, and it requires the applicant to set out explicitly the circumstances that render the matter urgent and explain why substantial redress cannot be obtained in due course.

[16] Where matters of illegality, such as alleged by the applicant, that the order sought to be executed was not a lawful order of court, the courts are quick to allow such matters to be brought before them, the purpose being to immediately halt such illegality, which will jeopardise the proper functioning of the court system. This is what the court did in these proceedings.

[17] The first respondent raised, as a point *in limine*, that the matter was not urgent, and that any urgency claimed was self-created. The applicant, on its version, indicated that it became aware of the order on 7 May 2026 when the Sheriff approached and served the order and warrant on the applicant.

[18] However, after hearing the facts of the matter, the court is not convinced that the applicant succeeded in proving the urgency of the matter.

Incompetent Relief Sought

[19] The first respondent also raised a second point *in limine*, namely that the relief sought by the applicant is an incompetent relief; that no *bona fide* defence has been raised by the applicant; that the allegations that the judgment is improper are not substantiated; that the allegations that the matter is still pending are misplaced; and that the defence of non-compliance with the National Credit Act 34 of 2005 (NCA) cannot be sustained. Lastly, the first respondent submitted that case number 252/2025 is for repossession of the goods, and that the default judgment as well as the warrant for repossession were granted under this case number.

[20] That case number 2025-184723 is a monetary claim that is still pending. As a result, the relief sought by the applicant is an incompetent relief.

[21] The applicant is seeking an interim interdict, interdicting the execution of an order which it believes is not an order of court; whether or not this belief is actually correct makes no difference at this point.

[22] Any party that harbours a *bona fide* belief that a document purporting to be a valid court order being executed against it is not lawfully obtained has a right to approach the court and apply for an interdict against such execution, pending proper verification of the document. The court therefore does not agree with the first respondent that the relief sought by the applicant is an incompetent relief.

[23] The court has heard arguments on the merits of Part A of the claim, and as a result, it will proceed to determine the application in relation to Part A of the claim.

Legal Principles

[24] The question before the court in these proceedings is whether the default judgment granted by the registrar of this court on 5 August 2025 is a valid order capable of being executed by the Sheriff of the court.

[25] In terms of rule 31(5), the registrar is empowered to grant default judgments in claims involving a debt or liquidated demand.

[26] Any challenges to these judgments are usually and typically brought by an application for rescission of judgment or a reconsideration application under rule 31(5)(d).

[27] The applicant has also raised a defence of non-compliance with the provisions of the NCA, which led to the granting of the challenged default judgment.

[28] It is also important to establish whether the registrar is empowered to grant a default judgment in matters falling under the NCA.

[29] In *Nedbank Ltd v Mollentze*,¹ the court clarified the position as follows: the registrar is legally empowered to grant default judgments under the NCA, provided statutory safeguards (like section 130 compliance) are met. This Court aligns itself with this position.

[30] Section 23 of the Superior Courts Act 10 of 2023 clearly states that the registrar is vested with the powers to grant and enter default judgments for as long as he or she does so in a manner and circumstances prescribed by rule 31(5)(a) of the Uniform Rules of Court.

[31] There is no challenge by the applicant regarding the powers of the registrar to grant such default judgment, but the challenge is to the document itself. The applicant submitted that nowhere in the document is there any indication that it is a judgment or order granted by the registrar, such as the words “*it is ordered*” or “*the following order is granted*”.

[32] This contention is misdirected. The registrar’s core functions are *quasi-judicial* in nature. Such duties are performed in line with rule 31(5)(a) and rule 70 of the Uniform Rules of Court, which deal with default judgments and taxations respectively. The granting of a default judgment and the issuing of an allocator in taxation matters have the force of a court order, upon which execution can take place.

[33] Any default judgment granted and entered by the registrar should be deemed to be a judgment of the Division, in the manner and in the circumstances prescribed by the rules.

[34] The applicants’ submission that the registrar in the default judgment of 5 August 2025 did not do any of the functions stated in paragraph (b) of rule 31(5) is also misdirected.

¹ *Nedbank Ltd v Mollentze* 2022 (4) SA 597 (ML) at para 37.

[35] It is clear from the document that the heading thereof is specifically headed “order”, and the prayers are then outlined. The registrar granted part of the prayers, refused part of the prayers, and confirmed this by affixing her signature to the request. The registrar’s signature on the document reflects the approval or the granting of the request.

[36] This clearly indicates that the registrar exercised the powers granted to her under parts (i), (ii) and (iii) of rule 31(5)(b).

[37] Any dispute arising from this *quasi-judicial* function of the registrar may be reviewed by a court, as this is a judicial act performed by an official who is either not a judge or acting in a judicial capacity.

[38] The applicants, surprisingly, acknowledge that the same document presented to the registrar on 23 May 2025 was an application for default judgment, which was refused by the registrar, who at the time requested the filing of the letter of demand that was served on the defendant and proof of service.

[39] However, once the registrar has granted the request, it becomes a document that does not qualify to be an order of court.

Case 252/2025 and case 2025-184723

[40] There seems to be confusion, at least from the applicants’ side, regarding these case numbers. The applicant submitted that, after obtaining the default judgment on 5 August 2025 the first respondent went on to issue new summons under case number 2025-184723, which seeks almost the same relief. This assertion is also misdirected.

[41] Case number 252/2025 clearly indicates that it concerned the return of the goods as mentioned above. Once this matter was finalised and the default judgment granted, and the warrant of repossession issued, the applicant then issued proceedings under case number 2025-184723 for a monetary judgment. The

proceedings under this case number are still pending. This clearly dispels the notion that the proceedings under case number 252/2025 are still pending.

Analysis

[42] Having regard to the applicable legal principles governing the registrar's powers and functions in terms of rule 31(5), and applying them to the issues before the court, the following observation is made:

42.1 The applicants' assertions that the document, a default judgment granted by the registrar on 5 August 2025, is not a granted order are misdirected.

42.2 The applicants' contention that the default judgment does not contain the word "order" is also misdirected.

42.3 The applicants' submission that the default judgment was not granted on 5 August 2025, as the applicant issued new summons under case number 184723/2025 seeking the same relief, is also misdirected.

42.4 The applicant submitted that on 7 May 2025, when she was confronted by the Sheriff of the Court, she was unaware of the court process against her and the nature of the order granted. However, on her own version, she became aware that the default judgment was granted by the registrar in terms of rule 31(5) of the Uniform Rules of Court; on the 12th June 2026, it is therefore a wonder why she persisted with this application in its current form.

Remedy

[43] Taking into consideration all the factors mentioned above, the court finds that the application cannot succeed on Part A.

[44] The court is not called upon to deal with Part B of the application.

Order

[45] In the circumstances, it is ordered that:

1. The application is deemed not urgent.
2. The application, in terms of Part A, is dismissed.

3. The applicant is ordered to pay the costs of the first respondent on a party-and-party scale B, including the costs of Counsel.

NSIBANDE AJ

ACTING JUDGE OF THE HIGH COURT
MPUMALANGA DIVISION, MIDDELBURG

Appearances

Counsel for the Applicant:	Adv M.S Sikhwari SC
Instructed by:	Sikhwari Attorneys Inc Pretoria
Counsel for the first Respondent:	Adv WP Steyn
Instructed by:	Baloyi Swart and Associates Pretoria
Date of hearing:	14 th July 2026
Date of judgment:	September 2026