IN THE HIGH COURT OF SOUTH AFRICA
(EASTERN CAPE DIVISION, GRAHAMSTOWN)

CASE NO: 2438/2021
Date heard: 8 December 2021
Date delivered: 8 December 2021

In the matter between

AMATHLATI LOCAL MUNICIPALITY	**Applicant**
vs	
DINGAAN JOHN FUBU	**First Respondent**
SIGWEBA BUHLE	**Second Respondent**

JUDGMENT

LOWE J:

INTRODUCTION

1. On 15 June 2021 Roberson J having heard an opposed application in this matter issued the following order:

> "[48] The following order will issue:
>
> [48.1] The respondent and any person acting at his behest are to cease forthwith all timber harvesting and sawmill operations on Erf 80 Stutterheim, commonly known as Jacobs Bush.
> [48.2] The respondent and all persons occupying through him are evicted from Erf 80 Stutterheim.
> [48.3] The respondent is to pay the costs of the application."

2. The origin of the dispute lies in the fact that Applicant is the registered owner of Erf 80, Stutterheim (Jacobs Bush). This is a forest of about 500 hectares of indigenous

trees including yellowwood, blackwood and stinkwood and some indigenous trees such as pine, gum and wattle. It is an important birding area and supports a number of near endemic and endemic birds. The forest has a unique biodiversity including rare and protected fauna and flora. It is as an area highly intolerant of fires.

3. The original application was brought on an urgent basis and finally came to a conclusion with the order of Roberson J above.

4. It appeared from the application that the Applicant's area of jurisdiction is extremely vulnerable to fire because of the climate, topography and vegetation. It appears from the judgment of Roberson J that the Applicant in this matter was the Applicant before Roberson J, as was the First Respondent in this matter as the only Respondent, and the person essentially against whom the order was granted.

5. In short Respondent in that matter had been operating a large scale timber harvesting and sawmill operation in a manner alleged to be fire hazardous and showed little regard for the environment. The Respondent failed to comply with various demands made by Applicant.

6. It further appears from the judgment that Respondent, although making various denials, failed to raise a genuine or *bona fide* dispute of fact.

7. The order of Roberson J related to the entire property of Jacobs Bush and included Respondent's eviction therefrom.

8. In this matter an application is brought against two Respondents, First Respondent being the only Respondent in the previous matter and Second Respondent newly added.

9. The relief sought was brought on an urgent basis on 10 August 2021 (for hearing on 26 August 2021) calling upon Respondents to show cause why they should not be declared in contempt of the order of Roberson J referred to above. What is sought is referred to as a coercive order directing Respondents to be committed to prison for a period to be determined, suspended on conditions deemed appropriate. The matter was called on 26 August 2021 but as Respondents' affidavits had been filed only on the 24 August 2021 Applicant required time to respond. It must be remembered that Applicant had constructed its own time table in this regard calling for the answering affidavits to be filed before 18 August 2021. This gave Respondents 5 court days to file their affidavits, which they failed to comply with, though having regard to the seriousness of the matter perhaps with some good reason. Why Applicant was not in a position to file its affidavits immediately, and proceed to argument is not explained on the papers, but in argument Mr. Boswell suggested that having regard to the contents and ambit of the answering affidavits this was simply impossible. In my view this cannot all be laid at the door of Respondents however. The matter was postponed by agreement to 18 November 2021 apparently the first available date, costs reserved.

10. When the matter initially came before me, First and Second Respondents appeared personally, their attorneys having withdrawn the previous day. They requested an opportunity of obtaining alternative legal assistance which I granted in the circumstances of the matter postponing this to 2 December 2021. It appears that the attorneys withdrew not having been placed in funds as at 18 November 2021 – clearly the cause of the postponement being Respondents' default in this regard.

11. On that date, and at the very last minute First and Second Respondents were represented by an attorney and counsel who sought further time to prepare for argument, they having being briefed only late the previous day and in counsel's case on the morning of 2 December 2021.

12. Having heard argument, and in due course by agreement, an order was given postponing the matter for argument to 8 December 2021 with a time table relevant to the filing of heads of argument. The postponement was inevitable Respondents requiring in an important matter such as this, where their liberty was at stake, to be heard as a matter of justice. Nevertheless I should state that effectively the postponement was forced by Respondents' in these circumstances as counsel stated from the bar that if the postponement was not granted he was instructed to withdraw and the matter would then have had to go by default, the Respondents' not being present at the Court or in Grahamstown to appear personally.

THE FACTS RELEVANT TO THE CONTEMPT APPLICATION

13. It appears from the papers that First Respondent has from 15 June 2021 been sufficiently aware of the order of Roberson J. This was drawn to the attention of his attorneys on that date in a letter and those attorneys received a copy of the order on 22 June 2021 via email. On 23 June 2021 an employee of the Applicant handed a copy of the judgment and order to the First Respondent's employees at the unlawful timber harvesting and sawmill operations. They did not comply with the order. On 24 June 2021 the Sheriff served a copy of the judgment and order on the First Respondent.

14. This application was served on First and Second Respondents personally on 11 August 2021.

15. It should be immediately noted however that Second Respondent is nowhere referred to in the application before Roberson J or in her order.

16. The Applicant alleges that:

16.1 On 23 June 2021 Applicant visited the Jacobs Bush property and that First Respondent's employees, including his son, were conducting the unlawful harvesting and sawmill activities notwithstanding the order of Roberson J. The order was read to those employees who refused to cease their unlawful activities;

16.2 On 28 June 2021 an email was addressed to Applicant's attorneys by First Respondent's attorneys complaining that they represented Second Respondent alleging that Applicant had intimidated and harassed Second Respondent's staff. Later that same date Applicant attended the property and found First Respondent's employees were continuing with their operations. The employees present indicated that they were employees of First Respondent and the operation belonged to First Respondent;

16.3 On 1 July 2021 Applicant's attorneys responded in writing denying the allegations of harassment demanding that the operation cease immediately;

16.4 On 15 July 2021 Applicant again visiting Jacobs Bush observed that "Respondent's employees" were continuing with their unlawful activities and particularly high fire risk activities;

16.5 "First and Second Respondents" are deliberately attempting to evade compliance with the order of 15 June 2021 by creating the impression that it is Second Respondent and not First Respondent conducting the impugned activities;

16.6 Second Respondent is "complicit with the First Respondent" in contemptuously disregarding the order of Roberson J, and that both Respondents are accordingly in willful contempt.

17. First Respondent in answer does not deny that he was aware of the order of Roberson J but alleges a defense that he is in possession of a "permit" entitling him to harvest timber from the property, this in similar terms to his defense in the previous matter rejected by Roberson J.

18. Insofar as the remainder is concerned his defense is to deny that he has operated timber harvesting facilities at Jacobs Bush or that his son was involved therewith since the granting of the order.

19. Second Respondent does not dispute that she is conducting timber/harvesting operations at the property but relies on an alleged “permit” issued by the cooperative stating that her operation is lawful.

20. Both she and First Respondent allege that it is not First Respondent that is continuing with timber harvesting at Jacobs Bush, but it is Second Respondent and lawfully so.

21. In reply Applicant deals comprehensively with both First and Second Respondents’ versions. The “permit” is alleged to be simply a memorandum with no lawful authority. It is pointed out that the disputes raised were essentially those raised before Roberson J and which found no favour. Applicant denies that there are any other persons unlawfully operating timber harvesting operations as is alleged in defense.

22. In essence the fundamental submission is that First and Second Respondents are colluding in an attempt to undermine the order of Roberson J. In essence Respondents persist that it is First Respondent and his employees who are conducting the continuing operation the employees present expressly confirming that they were employees of the First Respondent and that the operation belonged to First Respondent making no reference to Second Respondent. Applicant denies that the operation belongs to or is conducted by Second Respondent either as she alleges or at all, alleging that she and First Respondent are colluding to mislead the Court.

THE LAW

23. As is well known the enforcement of orders for maintenance by contempt proceedings are in a special category in which this relief is competent.

24. The leading case relevant is *Fakie NO v CC11 Systems (Pty) Ltd* [1]. At paragraph [42] Cameron J summarized the approach as follows:

> "(a) The civil contempt procedure is a valuable and important mechanism for securing compliance with court orders, and survives constitutional scrutiny in the form of a motion court application adapted to constitutional requirements.
>
> (b) The respondent in such proceedings is not an 'accused person', but is entitled to analogous protections as are appropriate to motion proceedings.
>
> (c) In particular, the applicant must prove the requisites of contempt (the order; service or notice; non-compliance; and willfulness and *mala fides*) beyond reasonable doubt.
>
> (d) But, once the applicant has proved the order, service or notice, and non-compliance, the respondent bears an evidential burden in relation to willfulness and *mala fides*: Should the respondent fail to advance evidence that establishes a reasonable doubt as to whether non-compliance was willful and *mala fide*, contempt will have been established beyond reasonable doubt.
>
> (e) A *declarator* and other appropriate remedies remain available to a civil applicant on proof on a balance of probabilities."

[1] 2006 (4) SA 326 (SCA)
Bannatyne v Bannatyne 2003 (2) SA 809 (CC) at para [18]
Mathabeng Local Municipality v Eskom Holdings Limited and Others; Shadrack Shivumba Homu Mkhonto and Others v Compensation Solutuions (Pty) Limited [2017] ZACC 35 at para 34.

25. On the papers the order and notice thereof is undisputed and indeed common cause[2].

26. The only issue is whether Applicant has established the breach, willfulness and *mala fides,* beyond reasonable doubt. In this regard First Respondent has an evidentiary burden, once the breach is established on the evidence.

27. In *AK v JK* [3] considering contempt proceedings the Court held**:**

> "85. Has the respondent discharged the evidential burden he bears to show that his failure to comply with the order of Le Grange, J was not willful or *mala fide?* In *Maujean* [4] King J described the act of willfulness thus:
>
> "More specifically in the context of a default judgment 'willful' connotes deliberateness in the sense of knowledge of the action and of the consequences, its legal consequences and a conscious and freely taken decision to refrain from giving notice of intention to defend, whatever the motivation for this conduct might be".
>
> I consider that the same approach is warranted in considering the element of willfulness in this matter given that it accords with the following *dictum* of Cameron JA in *Fakie*:
>
> `"[9] The test for when disobedience of a civil order constitutes contempt has come to be stated as whether the breach was committed 'deliberately and mala fide'. A deliberate disregard is not enough, since the non-complier may genuinely, albeit mistakenly, believe him- or herself entitled to act in the way claimed to constitute the contempt. In such a case good faith avoids the infraction. Even a refusal to comply that is objectively unreasonable may be bona fide

[2] Secretary of the Judicial Commission of Inquiry into Allegations of State Capture, Corruption and Fraud in the Public Sector including Organs of State vs Zuma and three others [2021] ZACC 18
[3] Case No.: 19890/2018, Western Cape Division, Cape Town (3 November 2020)
[4] Maujean t/a Audio Video Agencies v Standard Bank Ltd 1994 (3) SA 801 (C) at 803H – I.

> (though unreasonableness could evidence lack of good faith)." (Internal references omitted)"

THE PROPER APPROACH TO FINAL RELIEF

28. The requirements for a final interdict are: a clear right; injury actually committed or reasonably apprehended; no other suitable alternative remedy.

29. Motion proceedings such as this are not designed to resolve factual disputes. Unless concerned with interim relief, such applications are all about the resolution of legal issues based on common cause facts. In the absence of special circumstances they are not used to resolving factual issues because they are not designed to determine probabilities.

30. In *Plascon Evans Paint Ltd v Van Riebeeck Paints (Pty) Ltd* 1984 (3) SA 623(A) at 634–635 [also reported at [1984] 2 All SA 366 (A) – Ed], the rule was established that where in motion proceedings disputes of fact arise on the affidavits, a final order can be granted only if the facts averred in Applicant's affidavits, which have been admitted by the Respondent, together with the facts alleged by the latter, justify such order. It may be different if the Respondent's version consists of bald or uncreditworthy denials, raises fictitious disputes of fact, is palpably implausible, farfetched, all so clearly untenable that the Court is justified in rejecting them merely on the papers. *National Director of Public Prosecutions v Zuma* 2009 (2) SA 277 (SCA) at [26] [also reported as *National Director of Public Prosecutions v Zuma* (*Mbeki and another intervening*) [2009] 2 All SA 243 (SCA) – Ed].

31. It should be emphasised that whilst generally undesirable to attempt to decide an application on affidavit where there are material facts in dispute, it is equally undesirable for a court to take all disputes of fact at face value which would enable a Respondent to raise fictitious issues of fact in avoidance. It is necessary then to

examine the alleged disputes and determine whether they are real or can be satisfactorily resolved without the aid of oral evidence.

32. In *Wightman t/a JW Construction v Headfour (Pty) Ltd and another* 2008 (3) SA 371 (SCA) at [13] [also reported at [2008][2 All SA 512 (SCA) – Ed] the following was said:

> "A real genuine and *bona fide* dispute of fact can exist only where the court is satisfied that the party who purports to raise the dispute has in his affidavit seriously and unambiguously addressed the fact said to be disputed. There will of course be instances where a bare denial meets the requirement because there is no other way open to the disputing party and nothing more can be expected of him. But even that may not be sufficient if the fact averred lies purely within the knowledge of the averring party and no basis is laid for disputing the veracity or accuracy of the averment. When the facts averred are such that the disputing party must necessarily possess knowledge of them and be able to provide an answer (or countervailing evidence) if they be not true or accurate but, instead of doing so, rests his case on a bare or ambiguous denial, the court would generally have difficulty in finding that the test is satisfied. I say generally because factual averments seldom stand apart from a broader matrix of circumstances, all of which need to be borne in mind when arriving at a decision. A litigant may not necessarily recognize or understand the nuances of a bare or general denial as against a real attempt to grapple with all relevant factual allegations made by the other party. But when he signs the answering affidavit, he commits himself to its contents, inadequate as they may be, and will only in exceptional circumstances be permitted to disavow them."

33. As in this matter neither party sought the referral of disputes to oral evidence. I am entitled to deal with the application on the undisputed facts. Thus if notwithstanding that there are facts in dispute, I am satisfied that Applicant is entitled to relief in view of the facts stated by Respondents together with the facts in Applicant's affidavits, which are admitted or have not been denied, I am entitled to make an order giving effect to such finding. The onus plays no role in this. In so doing a

robust approach may be taken in certain circumstances to decide the issues on the affidavits. This must be cautiously adopted as the disputes on affidavit in an application should not be settled on the probabilities solely. In practice a robust approach is adopted only where the allegations on one or other side, are so clearly false or intrinsically improbable that a court could say that an oral hearing would not disturb the balance of probabilities. *Civil Procedure in the Supreme Court*: *Harms* B56-B-64.

DISPUTES OF FACTS IN THIS MATTER

34. The crucial dispute of fact relevant to First Respondent in this matter relates to Applicant's visits to Jacobs Bush and the activities thereon (alleged to be those of First Respondent) on 23 June 2021 and thereafter through to 15 July 2021. That is simply whether First Respondent is still conducting the prohibited operation on Jacobs Bush, or whether he has completely withdrawn therefrom with machinery and employees, and it is Second Respondent who is doing so.

35. In a short answering affidavit First Respondent denies having continued with the operations on the property or starting another operation on Jacobs Bush. He denies that the continuing timber operation on Jacobs Bush is his or that his son was on site or his equipment. He says that to his knowledge it is the Second Respondent running the operation with her employees, nothing to do with him. He says it is entirely possible that there were other unlawful timber cutters present. The affidavit is short with no detail. Second Respondent, as I have already set out above, says that initially First Respondent was the only person running a timber harvesting operation at Jacobs Bush, but says that since the order of Roberson J she not First Respondent is operating with a valid permit. She states that it was her employees found by Applicant and says she is not even aware of the Court order referred. She denies colluding with First Respondent to undermine the Court order and says that she is using her own machinery and employees. She denies that Applicant is entitled to any relief against her. In reply Applicant persists in its

allegation that First Respondent and Second Respondent are acting manifestly in contempt, pointing out the inadequacy of the answering affidavit of First Respondent.

36. In respect of Second Respondent Applicant denies that she has any entitlement to conduct her operation on Jacobs Bush. It is pointed out that her business is established on exactly same piece of land approximately 2500 m² in extent upon which First Respondent had conducted his unlawful business. Applicant persists in alleging that the operation is being conducted by First Respondent's employees, who admitted as much, on the very same site and deny that this was an operation belonging to Second Respondent. It argues that Second Respondent's allegations are misleading in this regard.

37. Applicant in its founding papers made detailed and specific allegations as to its visits to the operation on Jacobs Bush, and states by first hand observation that it was First Respondent's employees including his son who were continuing to conduct unlawful timber harvesting and sawmill activities despite the order. It is made clear that First Respondent were not present at the time but this was at the same site operating from the same premises and using the same equipment. Not only the First Respondent's son was present but also First Respondent's bakkie described with registration number and this is supported by an affidavit by Mr. Mostert who was present and made these observations. In answer First Respondent says that this is all untrue that he did not continue as is alleged. In a bald denial he states that:

> "I deny that my son or my Mazda bakkie were on site. I used my Mazda bakkie as a van for hire, which transport goods, groceries and even water for my customers in and around Stutterheim. It is well known and it is always being parked around town. It will be easy for Mostert to take down the registration at any point when he sees it around town."

38. In essence this is a bare denial, there is no supporting affidavit filed by First Respondent's son nor any indication as to where his son was on that day or where the bakkie in fact was and what it was doing on that day. It is a patent attempt to suggest that Mostert was misleading the Court and making up what he says, under oath, he observed. This is not the kind of answer which creates a *bona fide* dispute of fact in the circumstances of this matter.

39. It was only after this that Applicant was informed by a firm of attorneys that the operation was that of Second Respondent who had been harassed and intimidated. On the same date 28 June 2021, having been informed by the attorneys accordingly, Applicant conducted a further inspection of property with the Applicant's former acting director community services Mrs. A. Noholoza. A supporting affidavit is filed by Mrs. Noholoza in this regard. Mostert also deposes to what happened. It is said that First Respondent's employees were continuing with the operation on the same site and that the persons present confirmed to Mrs. Noholoza that they were employees of First Respondent and that their operation belonged to him. This is shortly denied by First Respondent saying that the employees "would be her employees" referring to Second Respondent. There is no answer to the supporting affidavit of Mrs. Noholoza and this bare denial is far from what is required in an answering affidavit in respect of very specific allegations made by no less than three deponents.

40. Much the same occurred on 15 July 2021 on a further inspection by Mostert the activities continuing. It is alleged that First Respondent's employees were present and threatened to injure Mostert if he returned on site. This too is met with bare denials, and whilst there were supporting affidavits filed by two employees, supporting First Respondent's allegations, these were unsigned and signed versions were not produced at the hearing although this was referred to as about to happen.

41. In this regard Second Respondent's allegations are unconvincing she saying very shortly that she denies Mostert arrived at the site finding First Respondent's

employees but that it was her operation and her employees hard at work. No further detail is given in this regard.

THE RESULT

42. In my view, and on the appropriate test to application papers, the purported disputes of facts raised by First Respondent that it is not his employees and son operating the continued harvesting of timber, but Second Respondent and nothing to do with him, falls to be dismissed out of hand as his attempt to raise a dispute of fact, which must be dismissed as being clearly lacking in *bona fides*. It is effectively a bald denial with no detail at all, and not such as to establish a *bona fide* dispute of fact.

43. That Second Respondent supports this, but takes the matter little further, and it appears that there is certainly merits in Applicant's allegation that Second Respondent is complicit in assisting First Respondent in his defense.

44. That being so, in my view, and a proper approach to the papers, Applicant has sufficiently established a basis for First Respondent's liability and contempt. First Respondent was aware of the order, at all times relevant, is in breach and has clearly acted willfully and *mala fide* in contempt thereof.

SECOND RESPONDENT'S POSITION

45. In my view, however the issue insofar as Second Respondent is concerned is entirely different.

46. From my analysis of the legal position above, it is clear that an order of contempt must follow, save in very exceptional circumstances, a prior order naming implicating and interdicting the person against whom contempt proceedings are subsequently brought.

47. There can be no argument that Second Respondent was in any way referred to or linked to the order of Roberson J in this matter.

48. Whether or not she is conducting timber harvesting operations on Jacobs Bush lawfully or unlawfully, is entirely irrelevant to the contempt proceedings in this matter.

49. There is no relevant or sustainable argument, in my view, that Second Respondent can be held in contempt of the order of Roberson J.

50. This matter does not raise the considerations that were referred to in *Holtz v Douglas and Associates (OFS) CC*[5] which related to a director of a company adding and abetting the company against whom the order had been granted to breach that order.

51. In the result, the order sought against Second Respondent must fail with costs same as is set out below.

52. Insofar as costs were reserved in this matter on two previous occasions, the following is the position.

53. The postponement of the matter on 26 August 2021 was in the circumstances already outlined. In my view, and whilst the matter was urgent, the reason for the matter having to be postponed was Applicant's requirement of time to properly reply. In my view the fact that the Respondents were late in filing their affidavits, contributed to the need for the postponement of the matter which was clearly established. However, as the parties each bore some fault in this regard, in my view, Applicant and First Respondent must each bare their own costs, whilst in

[5] 1991 (2) SA 797 (OPA),

respect of Second Respondent, these costs are to be met by Applicant, as part of the costs of the application.

54. On the second and third occasions, the postponements were at the request of the Respondents as they were not ready to proceed. On the second occasion, this was due to their attorney having withdrawn at short notice, for reasons unexplained, and on the third occasion by their late briefing of attorney and counsel.

55. None of this was due to any fault on behalf of the Applicant. I have fully set out the circumstances of these further postponements above. On the contrary, on the third occasion Respondents failed to appear themselves, being represented only by attorney and counsel, who applied for a postponement, making it clear that if the postponement was not granted they would withdraw, and that First and Second Respondents were not at court themselves being in Stutterheim.

56. In my view, the costs of the second postponement on 18 November 2021, as between Applicant and First Respondent must be borne by First Respondent. As against Second Respondent, in my view, it would be just and equitable were each party to bear their own costs in this regard having regard to the circumstances of the postponement.

57. As to the postponement on the 2 December 2021 the conduct of the Respondents in this regard was egregious.

58. In respect of First Respondent, as between Applicant and First Respondent, First Respondent should bear Applicant's costs. Insofar as Second Respondent is concerned it would be just and equitable if each party were to pay their own costs.

59. As to the scale of costs relevant to the costs awards against First Respondent, the question is whether or not these should be on a punitive basis.

60. Attorney and client costs are in general awarded in circumstances where the litigation is vexatious, fraudulent or dishonest, or constitutes an abuse of process[6]. To this one may add that such order is justified where the conduct concerned is *"*extraordinar*y"* and worthy of the Court's rebuke[7].

61. In the result, the costs awards against First Respondent are all to be on an attorney and client scale, this matter being effectively vexatious litigation, and First Respondent's defense being clearly vexatious and deserving of the Court's rebuke, and the postponements referred to entirely to be laid at First Respondent's door.

ORDER

62. The relief sought against First Respondent, is in my view, fully established but as against Second Respondent falls to be dismissed

63. The following order issues:

1. The Application against First Respondent succeeds with costs, as set out below.
2. An order is granted against First Respondent as follows:

2.1 First Respondent is declared to be in contempt of the order of Roberson J issued under case number 1998/2020 on 15 June 2021;

2.2 First Respondent is committed to imprisonment for 30 days;

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[6] *Public Protector v South African Reserve Bank* 2019 (6) SA 253 (CC) [8]

[7] *Public Protector supra; Plastic Converters Association of South Africa (PCASA) v National Union of Mineworkers Union of South Africa and Others* [2016] 37 ILJ 2815 (LAC) (6 July 2016) [46].

2.3 The period of imprisonment imposed on first respondent in paragraph 2.2 above is suspended on condition that First Respondent complies with the order of Roberson J referred to above within 4 days of the date hereof.

3. In the event that First Respondent fails to comply with the order of Roberson J referred to above within 4 days hereof, the Applicant is authorized to approach the above Honourable Court on the papers relevant to this application, amplified as may be necessary, for an order in terms of paragraph 2.2 above.

4. The application against Second Respondent is dismissed with costs save (as to costs) to the extent appearing below.

5. In respect of First Respondent as to costs:
   5.1 As to the costs reserved on 26 August 2021 each party is to pay their own costs;
   5.2 As to the costs of 18 November 2021 First Respondent is to pay Applicants costs on the scale as between attorney and client;
   5.3 As to the costs of 2 December 2021 First Respondent is to pay Applicant's costs on the scale as between attorney and client;
   5.4 As to the remainder of the costs First Respondent is to pay Applicant's costs on the scale as between attorney and client.

6. In respect of Second Respondent, Applicant is to pay her costs in the application save in respect of the costs occasioned on the 18 November 2021 and 2 December 2021, each party to pay their own costs in respect thereof;

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M.J. LOWE
JUDGE OF THE HIGH COURT

Appearing on behalf of the Applicant: Adv. Boswell S.C.
Instructed by: Netteltons Attorneys, Ms Pienaar

Appearing on behalf of the Respondents: Adv. Ntlokwana
Instructed by: Mgangatho Attorneys, Mr. Basson