

SOUTH AFRICA / JUDGMENT

African Cellurar (Pty) Ltd and Another
v Firstmile Prop JHB Crown Mines
(Pty) Ltd and Another (2024/070849)
[2024] ZAGPJHC 605 (28 June 2024)
[2024] ZAGPJHC 605

COURT

South Gauteng High Court, Johannesburg

BEFORE

GC Wright

CASE / FILE NUMBER

2024/070849

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IN THE HIGH COURT OF SOUTH AFRICA
GAUTENG DIVISION, JOHANNESBURG

Case

NO: 2024-070849

1.

REPORTABLE:

2.

OF INTEREST TO OTHER
JUDGES:

3.

REVISED

28

June 2024

In the matter between:

AFRICAN CELLURAR (PTY)

LTD

1ST Applicant

WAJAHAT

CHOUDARY

2nd Applicant

and

FIRSTMILE PROP JHB CROWN MINES

(PTY) LTD

1st Respondent

TAKE SHAPE PROPERTY MANAGEMENT

(PTY) LTD

2nd Respondent

JUDGMENT

WRIGHT J

1. The applicants rent a shop from the respondents in downtown Johannesburg.
2. In a very terse founding affidavit they seek urgent spoliation relief. They say that the respondents, on Sunday 23 June 2024, switched off the electricity and locked the shop.
3. Urgency is alleged in that the applicants sell cellphones and if they can't trade they may be liquidated and employees will become unemployed.
4. The respondents oppose but have not had time to file an opposing affidavit. Counsel for the applicant insisted that the matter proceed today, Friday. Belatedly, he asked me to stand the case to Tuesday next week. It is open to the applicants' attorney to set the matter down whenever he wants to provided there is sufficient urgency.
5. The urgency, if it exists at all and I make no finding thereon, is not urgent enough for a Friday hearing.
6. The respondents are entitled to an opportunity to file an opposing affidavit and have not yet been given a fair opportunity to do so.
7. Adv Mutenga for the respondents seeks punitive costs but in my view party and party costs on scale A suffice.

ORDER

1. The matter is removed from the roll.
2. The applicants are jointly and severally to pay the respondents' costs.

GC Wright

Judge of the High Court

Gauteng Division, Johannesburg

HEARD : 28 June 2024

DELIVERED : 28 June 2024

APPEARANCES :

Applicant Att S.F Silamulela

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1st Respondent Phambane Mokone Incorporated

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ORIGINAL SOURCE <https://www.saflii.org/za/cases/ZAGPJHC/2024/605.html>

CASE PAGE <https://chat.esheria.ai/case-law/south-africa/african-cellular-pty-ltd-and-another-v-firstmile-unknown-topic-agpjhc-2024>

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