

SOUTH AFRICA / JUDGMENT

Ashrafiah Trust v Rylands (C184/2023)

[2023] ZALCCT 70 (5 December 2023)

[2023] ZALCCT 70**COURT**

Labour Court Cape Town

BEFORE

Whitcher

CASE / FILE NUMBER

C184/2023

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Source record**THE****LABOUR COURT OF SOUTH AFRICA****HELD****AT CAPE TOWN****Case****no: C184/2023****Not Reportable****In****the matter between:**

ASHRAFIAH TRUST

(Registration

number it 6711/98 t)

Applicant

And

MOULANA

MOGAMAT FAROUK RYLANDS Respondent

Heard:

15 November 2023

Date

of Judgment: This judgment was

handed down electronically by circulation to the parties' legal

representatives by email. The date and time

for handing down judgment

is deemed to be 10h00 on 5 December 2023.

JUDGMENT**WHITCHER J**

- [1] Moulana Rylands is an Islamic scholar who graduated as an Aalim from the Islamic University, Darul Uloom, Newcastle after six years of studying. He has been the Imam of the Waterloo Road Mosque in Kenwyn for approximately twenty years. He is also a teacher at the Islamia College in Lansdowne, Cape Town.
- [2] According to the pleadings of the Trust, Moulana Rylands was dismissed from his post as Imam of the Waterloo Mosque in Kenwyn. However, despite his dismissal, he has refused to vacate his position as the officiating Imam at the Waterloo Road Mosque and had continued to act as the officiating Imam at the mosque. He has also continued to speak out against the Trust and its trustees. The latter formed part of the original complaints against Moulana Rylands which led to his dismissal.
- [3] The Trust has decided to address the matter through an application to this court. In summary, the relief sought by the Trust is that Moulana Rylands be:
- 3.1 Directed to vacate his post as Imam of the Waterloo Mosque and that he be interdicted from holding himself out to be the officiating Imam of the mosque and leading prayers, including Jumuah Prayers.
- 3.2 Interdicted from obstructing and preventing the Trust from appointing a new Imam at the mosque.
- 3.3 Interdicted from obstructing, assaulting, intimidating, threatening or impeding access to any Imam appointed by the Trust.
- 3.4 Interdicted from obstructing, assaulting, intimidating, threatening or impeding access to the trustees and other related persons.
- 3.5 Interdicted from causing damage to any equipment, furniture, appliances or other contents at the mosque, or from removing these items from the mosque.
- [4] The Trust also seeks an order authorising and directing the Sheriff and the South African Police Services to remove and eject Moulana Rylands from the mosque if he failed to comply with the interdict.
- [5] This court does not have jurisdiction over eviction matters and the power to grant eviction orders.
- [6] However, I see no reason not to grant the remaining relief sought.

[7] Despite claims to the contrary, Moulana Rylands was an employee of the Trust and concluded a contract with the Trust the terms of which are consistent with that of an employment contract. It is also clear from the contract that his right and duty to officiate as an Imam at the Waterloo Road Mosque arose from the contract. It would thus follow that on the termination of the contract by either party his rights and duties as the Imam at the Waterloo Road Mosque were automatically terminated.

[8] I also reject the claim that the court lacks jurisdiction to adjudicate this application because clause 22 of the contract of employment provides that:

“If any dispute between Imam and committee is unresolved, a third party (preferably an Aalim) mutually acceptable will arbitrate and rule on the matter.”

[9] This clause interpreted in the context of the whole contract clearly related to disputes that may have arisen between Moulana Rylands and the management committee of the Trust relating to his rights and duties and their management of Mosque during the currency of his employment.

[10] In any event, the relief sought by the Trust falls squarely within the exclusive powers of a court, the nature of which is interdictory relief.

[11] In the circumstances I make the following order:

Order

1. The respondent, Moulana Mogamat Farouk Rylands is directed to vacate his post as Imam of the Waterloo Mosque and is interdicted from holding himself out to be the officiating Imam of the mosque and leading prayers, including Jumuah Prayers.
2. The respondent, Moulana Mogamat Farouk Rylands is interdicted from obstructing and preventing the Trust from appointing a new Imam at the mosque.
3. The respondent, Moulana Mogamat Farouk Rylands is interdicted from obstructing, assaulting, intimidating, threatening or impeding access to any Imam appointed by the Trust.
4. The respondent, Moulana Mogamat Farouk Rylands is interdicted from obstructing, assaulting, intimidating, threatening or impeding access to the trustees and other related persons.
5. The respondent, Moulana Mogamat Farouk Rylands is interdicted from causing damage to any equipment, furniture, appliances or other contents at the mosque, or from removing these items from the mosque.
6. There is no order as to costs.

Benita Whitcher

Judge of the Labour Court of South Africa

Appearances

For the Applicant: Mr N Kellerman of South African United Commercial and Allied Employers' Organisation

For the Respondent: Yousha Tayob Attorneys

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