

SOUTH AFRICA / JUDGMENT

Constantia Metering Services (Pty) Ltd v Thokwane and Others (37474/2020) [2020] ZAGPPHC 620 (11 November 2020) [2020] ZAGPPHC 620

COURT

North Gauteng High Court, Pretoria

BEFORE

S Baqwa

CASE / FILE NUMBER

37474/2020

Source: saflii.org · Research copy typeset by Esheria. Not court-issued or certified.

Source record

IN

THE HIGH COURT OF SOUTH AFRICA

(GAUTENG

LOCAL DIVISION, JOHANNESBURG)

(1)

REPORTABLE: YES/NO

(2)

OF INTEREST TO OTHERS JUDGES: YES/NO

(3)

REVISED

11/11/20

Case

No: 37474/2020

In

the matter between:

CONSTANTIA
METERING SERVICES (PTY) LTD
Applicant
and
ERIC
PIBI THOKWANE
First Respondent
THE
GAUTENG TENANTS
ASSOCIATION
Second Respondent
LEBOGANG
PEBANE
Third Respondent
SAINT
JAY
MANYASHA
Third Respondent

JUDGMENT

BAQWA J:

INTRODUCTION

1. The applicant is Constatntia Metering Services (Pty) Ltd an electrical metering service and bulk electricity provider with its principal place of business at 60 Soutpansberg Road, Riviera, Pretoria.
2. The second respondent is the Gauteng Tenants Association and the first, second and third respondents are the officials or active members of the second respondent.

THE RELIEF SOUGHT

3. The applicant seeks an order in the following terms:
 - 3.1 An order interdicting and prohibiting the respondent from harassing, intimidating or threatening the applicant and employees of the first respondent;
 - 3.2 An order interdicting and prohibiting the respondents from extorting or attempting to extent funds from the applicant and its employees;
 - 3.3 An order interdicting and prohibiting the respondents from interfering with business operations of the applicant and its employees by preventing access to its premises;
 - 3.4 An order interdicting and preventing the respondents and their supporters from coming within 100 metres of the business premises of the applicant situated at 60 Soutpansberg, Riviera, Pretoria;

3.5 Costs of suit on the scale between attorney and client scale against the respondents jointly and severally.

BACKGROUND

4. The business of the applicant is essentially an outsourced business by the City of Tshwane on behalf of whom the applicant installs bulk metres which record the total consumption of the sectional title schemes and wholly-owned apartment blocks and assumes responsibility for payment of the electricity consumed. The applicant thereafter recovers the amounts payable by consumers by means of installing sub-meters at each of the individual units within the sectional title scheme or apartment block.
5. The applicant collects revenue and accounts to the City of Tshwane and in doing so bears the risk of defaults on the part of consumers.

THE CONDUCT COMPLAINED OF

6. The applicant submits that its employees have been on several occasions been confronted by the respondents regarding performance of its duties with the first respondent acting as the leading figure.
7. The applicant presents evidence, including recordings which demonstrates threatening, harassing and intimidating conduct by the respondents against applicant's principal place of business and at some of the premises at which applicant conducts metering services.
8. In some of the recordings the respondents demand R45,000.00 to be equally shared in exchange for access to buildings administered by the applicant. After a few meetings between the applicant and the respondents that demand is reduced to R22,0000.00.
9. In the audio recording Exhibit A, it is not denied that the first respondent says that they will burn bakkies and prevent applicant's employees from accessing its buildings.
10. It is also not denied that as per demand from the respondents, the applicant's technicians could only attend certain buildings after contacting the respondents in order to gain safe access.
11. In a meeting on 24 June 2020 the respondent re-iterated their demands that the accounts be rendered R0.00 and that if agreement was not reached in that regard "these people will become violent". The respondents insisted on being appointed as consultants for the applicant despite the latter's indication that it did not need such assistance.
12. In some of the meetings the respondents insisted on 'petrol money' being paid and under duress applicant was on not less than two occasions compelled to pay sums of R1000.00 and R500.00 respectively.
13. On 4 July 2020 a hostile and aggressive meeting was held which was attended by applicant's employees Michael Vermeulen and Sandile Madonsela at Hollard Place.

14. On 15 July 2020 some Constantia representatives including technicians and managers of the applicant were aggressively confronted by the respondents at Hollard Place. The technicians were stopped from working on the meters on the basis that reading of the meters was not part of the agenda. They were informed in no uncertain terms that if they did not stop “things could get ugly”. The clear threat is not denied by the respondents.
15. On 24 July 2020 one of the employees, Phillip Jnr was blocked from returning to applicant’s offices and pushed around. He was “visibly shaken” when he described the events.
16. It is also not denied that on that day protesters who were under the control of the respondents prevented customers from accessing applicant’s premises and chased them away.
17. The respondents admit that as a result of the confrontational situation which had developed, the applicant was compelled to give 1000 litres of water for free to the protesters under duress.
18. Applicant’s employees were compelled to barricade Constantia’s premises and first respondent was heard to ask whether applicant wanted them “to start burning tyres”. A private security firm had to be called in.
19. Respondents have opposed this application and they deny that the payment by the applicant for 1000 litres of water per resident constituted an extortion.
20. Respondents do not deny that they demanded removal of fees, reconnection fees and letters of demand.
21. Respondent also tender a bare denial that if applicant did not agree and pay first respondent and his colleagues R45,000.00 per month to be consultants, the power of the working class would be unleashed and that they would shut down applicant’s offices and deny access to all of applicant’s buildings.
22. Respondents submit that reference to a similar case brought against some of the respondents ought to be accepted as part of the evidence because it presents similar fact evidence. That was the WBHO case, a construction company. In my view, with the evidence presented by the applicant, there is no need to refer to WBHO which does constitute inadmissible evidence. Despite strenuous submission by Counsel for the applicant to the contrary, this evidence is not admitted.

ASSESSMENT OF THE EVIDENCE

23. In respondent’s answering affidavit, they do not deal with the essential allegations by the applicant and they resort to vague and unsubstantiated allegations regarding applicant’s allegations.

24. On the papers and evidence before me, it is clear that the respondents organised and mobilised protests against the applicant which turned violent. Applicant's situation became precarious when applicant even failed to secure assistance of the police when volatility was about to reach boiling point.
25. In the circumstances, this Court is not convinced by the respondents attempted denial that their conduct was explicitly threatening and extortionist against the applicant.
26. The demonstrations and threats were clearly aimed at preventing and controlling applicant's access to premises which it was contractually obliged to serve. Applicant is constitutionally entitled to free economic activity. See *Deneys Reitz v SAKAWU* 1991 (2) SA 685 (W) 693 – 696.

COMPLIANCE WITH THE REQUIREMENTS FOR AN INTERDICT

27. The applicant's business and property was clearly under a threat by the conduct of the respondents. Despite efforts to contain it the threat remained present and continuous. Applicant faced irreparable harm to its business and its employees and had no alternative remedy in these circumstances.
28. With continued violation of its rights, this Court will assist an applicant even where it could obtain damages. See *Erasmus, Superior Court Practice D6 – 15 Wynberg Municipality v Dreyer* 1920 AD 439.

THE ORDER

29. In the circumstances, I make the following order:

29.1 An order is granted interdicting and prohibiting the Respondents from harassing, intimidating or threatening the Applicant and the employees of the Applicant;

29.2 It is ordered that the Respondents are hereby interdicted and prohibited from extorting or attempting to extort funds from the Applicant and its employees;

29.3 It is ordered that the Respondents are hereby interdicted and prohibited from interfering with the business operations of the Applicant and its employees by preventing access to premises, or requiring prior communication with the respondents;

29.4 It is ordered that the Respondents and their supporters are interdicted and prohibited from coming within 50 meters of the business premises of the Applicant situated at 60 Soutpansberg Road, Riviera, Pretoria;

29.5 Costs of suit on the scale as between attorney and client against the Respondents jointly and severally.

JUDGE SELBY BAQWA

JUDGE OF THE HIGH COURT OF SOUTH AFRICA

GAUTENG DIVISION, JOHANNESBURG

MATTER HEARD ON

: 2 NOVEMBER 2020

JUDGMENT

RESERVED ON

: 2 NOVEMBER 2020

JUDGMENT

DELIVERED ON : __ NOVEMBER 2020

APPEARANCES:

COUNSEL FOR THE APPLICANT

: ADV SW DAVIES

ATTORNEYS FOR THE APPLICANT : J.W WESSELS ATTORNEYS

COUNSEL FOR THE RESPONDENTS : MR T PILLAY

ATTORNEYS FOR THE RESPONDENTS : PILLAY THESIGAN INC

Source & reproduction note

Judgment wording, source notices and original paragraph numbers are retained. Esheria supplies the layout and this PDF's page numbers; these are not the source pagination. This is a research copy, not an official or certified court document. Check quotations, citations and publication restrictions against the original source before relying on it.

ORIGINAL SOURCE <https://www.saflii.org/za/cases/ZAGPPHC/2020/620.html>

CASE PAGE <https://chat.esheria.ai/case-law/south-africa/constantia-metering-services-pty-ltd-v-thokwane-and-others-unknown-topic-agpphc-2020>

Prepared on 12 October 2026 · Esheria