

SOUTH AFRICA / JUDGMENT

## Council for Geoscience v Nkuna and Others (J2235/17) [2017] ZALCJHB 331 (15 September 2017) [2017] ZALCJHB 331

COURT

Labour Court Johannesburg

BEFORE

Whitcher

CASE / FILE NUMBER

J2235/17

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### Source record

IN

THE LABOUR COURT OF SOUTH AFRICA, JOHANNESBURG

Not

Reportable

Case no: J 2235-17

In

the matter between:

COUNCIL  
FOR  
GEOSCIENCE  
Applicant  
and  
MUNGEDZI  
MICHAEL NKUNA  
First Respondent  
THE  
SHERIFF FOR PRETORIA EAST  
Second Respondent  
NEDBANK  
LTD SILVERTON  
Third Respondent

Heard:

14  
September 2017

Delivered:

15  
September 2017

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**JUDGMENT****WHITCHER J**

- [1] The notice of attachment dated 8 September 2017 and in terms of which the attachment was made is set aside for the following

**reasons.**

- [2] The grand total claimed in this notice is clearly incorrect and contradicts the amounts set out in the introduction of the notice

where the amounts are explained. The judgment creditor is entitled to the payment of R716 500.00 (the capital amount) plus interest calculated at 15.5% from the date of the award, being the 25 October 2014 until date of actual payment and/or the execution notice plus any costs order awarded in favour of the first respondent by the court plus the sheriff's costs.

- [3] However, the grand total claimed in the notice dated 8 September 2017 is for a capital amount of R1 107 792.35 plus interest and the sheriff's costs. The capital amount claimed is incorrect.
- [4] The court order/award together with the amounts claimed was not served on the relevant treasury in terms of the State Liability Act 20 of 1957, as amended.
- [5] I shall not award costs against the respondents in this application because the applicant has provided no valid reasons why it has failed to pay the amounts due to the first respondent, despite the following.
- [6] In February 2015, the applicant in its application to stay an earlier writ made an undertaking to pay the full judgment debt together with interest immediately in the event of the dismissal of its review application.
- [7] A demand for payment of the judgment debt was made as far back as 4 August 2017, after the handing down of the judgment

dismissing the applicant's review application.

- [8] The applicant was further warned that the failure to honour the judgement debt will lead to an execution process.
- [9] The applicant has failed to set out valid reasons as to why it has failed to honour the judgment debt and why the first respondent is forced to resort to execution proceedings.

**Order**

- [10] In the premise, the following order is made:

1. The notice of attachment dated 8 September 2017 is set aside.

2. There is no order for costs.

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B. Whitcher

Judge of the Labour Court of South Africa

APPEARANCES:

For the Applicant:

Masephule Dinga Incorporated

For the First Respondent: M M Baloyi Attorneys

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