

SOUTH AFRICA / JUDGMENT

Hajee v Darsot (42535/2022)

[2023] ZAGPJHC 840 (27 July 2023)

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COURT

South Gauteng High Court, Johannesburg

BEFORE

S Yacoob

CASE / FILE NUMBER

42535/2022

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IN THE HIGH COURT OF SOUTH AFRICA

GAUTENG LOCAL DIVISION, JOHANNESBURG

CASE NO: 42535/2022

DATE: 23-11-2022

NOT REPORTABLE

NOT OF INTEREST TO OTHER JUDGES

REVISED

27.07.23

In the matter between

ZUBAYR ABUBAKER HAJEE Applicant and MOHAMED HANIF DARSOT Respondent

J U D G M E N T

YACOOb, J:

This is an urgent application for an interim interdict interdicting the selling and transfer of a property for which the applicant has entered into an agreement of sale with the respondent.

The respondent cancelled the agreement on the basis that the applicant had not paid the amounts that, according to the respondent, the applicant had to pay.

The applicant contends that the cancellation was not done in good faith, that the applicant has tendered to make payment in accordance with the agreement and that there is sufficient dispute of fact to warrant the matter being referred to trial. On that basis, it is submitted that the applicant has established a prima facie right and that the applicant will suffer more prejudice than the respondent will if there is no interdict. The applicant therefore submits he is entitled to an interdict pending the determination of the trial.

I am satisfied that even on the interpretation of the agreement contended for by the applicant, the applicant has not complied with his obligations in terms of the agreement, nor does the tender that was made on the 12th of October in fact tender to comply with those obligations in full.

The applicant has therefore not established a prima facie right to the relief sought nor that that is where the balance of convenience lies and the application is therefore dismissed with costs.

S. YACOOB

JUDGE OF THE HIGH COURT

GAUTENG LOCAL DIVISION, JOHANNESBURG

APPEARANCES:

APPEARANCE FOR THE APPLICANT:

Y ALLI

APPEARANCE FOR THE RESPONDENT:

P STRATHERN SC

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Prepared on 11 October 2026 · Esheria