

SOUTH AFRICA / JUDGMENT

Khosa and Another (2996/2019), Ex parte [2019] ZAFSHC 140 (29 August 2019)

[2019] ZAFSHC 140

COURT

Free State High Court, Bloemfontein

BEFORE

P.E. Molitssoane

CASE / FILE NUMBER

2996/2019

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IN THE HIGH COURT OF SOUTH AFRICA,

FREE STATE DIVISION, BLOEMFONTEIN

Case number: 2996/2019

In the matter between:

MASAINGITA A KHOSA 1st

APPLICANT

HLANGANANI SANDILE NXUMALO 2nd APPLICANT

and

EX PARTE

HEARD ON: 8 AUGUST 2019

REASONS:

MOLITSOANE, J

DELIVERED ON: 29 AUGUST 2019

[1] This is an application in terms of which the applicant seeks certain orders, inter alia, that the interim application as well as the main application be heard on an urgent basis. The Applicant further claims 'as per Court Order costs in respect of this application in the amount of R1 508,161,199.57 as 35% on costs... to be immediately executable by Sheriff ... from the banking account of the Department of Treasury Free State.' A similar application was brought before me a few days before this current application and I dismissed the said application on the basis that no notice was given to the respondents and also that the

application was not urgent.

- [2] This application was also brought on an ex parte basis without giving notice to any party who may be affected by the order(s) this court may give. Uniform Rule 6(2) provides as follows:

“When relief is claimed against any person, or where it is necessary or proper to give any person notice of such application, the notice of motion must be addressed to both the registrar and such person, otherwise it must be addressed to the registrar only.”

- [3] In this case the purported respondents have not been cited as can be seen from the heading above. The impression created is that this application is between the “Applicant and Ex Parte.” Neither the Departments of Treasury nor Social Development against whom relief is sought has been cited as parties. The said departments have a substantial interest in these proceedings and ought to have been joined. Failure to join the said departments is fatal to the Applicant’s case.

- [4] The said departments were also not notified of this intended application although the relief sought indicate that it would be

necessary and proper to give them notice. During argument the Applicant attributed her reason for not giving notice to what she

said were apprehension of threats to her life. It is difficult to fathom how giving notice to the departments would put her life in danger. No factual basis was laid for this alleged fear on her life. This application is further couched in the form of a final order. Granting such an order would clearly shut the door in the departments’ faces and would thus deny them justice. Failure to give notice is also fatal to this application

- [5] This application may be characterised as a sequel to the many applications on the same issue which this court has become aware of, brought by the applicant on an ex basis. A cursory count of the urgent applications on the same issues by the Applicant will reveal that no less than eight applications

were instituted in a space of two months. In spite of the orders of this Court dismissing the applications on the basis that no notice was given or that the applications were not urgent, Applicant continues to bring these applications on an ex parte basis. I have also noted an order of my Brother Tuchten, J in the High Court Gauteng Division, Pretoria(Case number 6530/2019) in which that Court struck the matter of the Applicant from the roll for failure to give notice to the respondents . In view of the continuous conduct by the Applicant of failing to give notice to the people who may be affected by the orders she seeks, I propose to make a similar order. I accordingly make the following orders:

ORDER

1. The Application is struck off the roll.

2. The Applicant(Masingita Abigail Khoza) may not bring any proceedings in this Court or any other Court or tribunal within the Republic of South Africa for the relief presently sought or any relief sought unless and until the papers have been served upon those who ought to receive notice of the application.

P.E. MOLITSOANE, J

On behalf of applicant: In Person

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Prepared on 9 October 2026 · Esheria