

SOUTH AFRICA / JUDGMENT

Madiya v Peete and Another (061865/2025) [2025] ZAGPJHC 522 (2 June 2025) [2025] ZAGPJHC 522

COURT

South Gauteng High Court, Johannesburg

BEFORE

Yacoob

CASE / FILE NUMBER

061865/2025

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IN THE HIGH COURT OF SOUTH AFRICA
GAUTENG LOCAL DIVISION,
JOHANNESBURG
CASE
NO: 061865/2025

DATE:

15-05-2025

REPORTABLE:

NO.
(2)
OF INTEREST TO OTHER JUDGES: NO.
(3)
REVISED.
In
the matter between
MADIYA,
SS
Applicant
and
PEETE,
NTN
First Respondent
CITY OF
JOHANNESBURG
Second Respondent

JUDGMENT**YACOOB, J:**

The applicant in this matter seeks to be heard urgently to obtain an order that the first respondent demolish structures which are, according to the applicant, encroaching on the applicant's property. The applicant obtained transfer of the property in November 2024 and intends to build on the property some additional rooms which she intends to rent out. The applicant has not yet obtained planning permission to build the rooms, nor has she permission to rent out rooms, to the extent that that may be necessary depending on the type of rental she contemplates. She has not demonstrated that she has purchased building materials.

According to the founding affidavit, the urgency is in the loss she is incurring from having what she contends are building materials stored at apparently R2 000 month, plus the loss of rental income from the unbuilt rooms. However, when one looks at the receipts provided for the so-called building materials, they are not building materials, but fittings for rooms which still have to be built. The applicant, having bought these items in January, must herself bear the consequences of having bought them before having built the rooms.

Secondly, there is no evidence that she is paying R2 000 per month for storage of these items. The invoice annexed in support of this contention is for R2 000 for two months, at R1 000 per month. Third, the applicant makes absolutely no allegation that she is unable to store the items herself. There is no possibility that that planning permission would have been obtained and the rooms built by the time she has now come to court, especially since she has not even applied for planning permission. So there is no urgency established for this application.

The applicant's council attempted to convince this Court that because there is an encroachment and the applicant has a right, that that makes the matter urgent. It does not. Every ordinary litigant who comes to this Court comes here in an attempt to assert a right which they claim they have. The simple existence of a right does not make a matter urgent.

FOR THESE REASONS, THE MATTER IS STRUCK FROM THE ROLL FOR WANT OF URGENCY.

YACOOB, J

JUDGE OF THE HIGH COURT

DATE:

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CASE PAGE <https://chat.esheria.ai/case-law/south-africa/madiya-v-peete-and-others-unknown-topic-agpjhc-2025>

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