

SOUTH AFRICA / JUDGMENT

Malatsi v Dikotla N.O and Others (066391/2025) [2025]

ZAGPJHC 524 (23 May 2025)

[2025] ZAGPJHC 524

COURT

South Gauteng High Court, Johannesburg

BEFORE

Crutchfield

CASE / FILE NUMBER

066391/2025

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IN THE HIGH COURT OF
SOUTH AFRICA
GAUTENG
DIVISION, JOHANNESBURG
CASE
NO: 066391/2025

DATE:

23-05-2025

(1)

REPORTABLE: NO.

(2)

OF INTEREST TO OTHER JUDGES: NO.

(3)

REVISED.

DATE

23 May 2025

In

the matter between

MARIA

NOKULELA MALATSI

Applicant

and

KENEILOE DIKOTLA

N.O.

First Respondent

BILL KOBRAS ATTORNEYS

Second Respondent

THE MASTER, HIGH COURT

JOHANNESBURG
Third Respondent

JUDGMENT

CRUTCHFIELD, J: The applicant, Maria Nokulela Malatsi, seeks urgent interim relief interdicting the administration of the deceased's estate pending finalisation of Part B of the application. The first respondent, Keneiloe Dikotla, the duly appointed executor to the estate, opposes the application.

Part B of the application seeks relief declaring the purported last will and testament of the deceased dated 5 April 2023 ("the

purported will"), as a valid will and that the letter of executorship issued to the first respondent by the Master of the High Court be cancelled, together with ancillary relief.

The application was issued on 9 May 2025 or thereabouts. Part A of the application was set down on 9 May 2025 for hearing before me on 20 May 2025.

The first respondent is the surviving spouse of the deceased and the appointed executrix of the estate of the deceased in terms of s13 and s14 of the Administration of Estates Act 66 of 1965 ("the Act").

The applicant alleges that in terms of the purported will, the applicant was appointed as the executor of the estate and that the estate should be administered in terms of the provisions of the purported will. The first respondent disputes the validity of the purported will and alleges that the purported will is fraudulent.

The applicant alleges that there is a legitimate challenge to the validity of the appointment of the first respondent and the

second respondent, being the attorneys of record of the first respondent, by the Master and that they should be interdicted from performing any actions and taking any steps in respect of the administration of the estate.

The first respondent was appointed on 3 August 2023 and the estate reported as an intestate estate. The applicant has not advised this court when the purported will was discovered, but the second respondent, Bill Kobras Attorneys, the first respondent's attorney, who deposes to the respondents' answering affidavit, alleges that the applicant brought the purported will to the respondents' attention on 5 September 2024.

In any event, the trigger for the launch of this application was the applicant allegedly becoming aware during January 2025, that the estate property was advertised for sale on the Property 24 website. The applicant's legal representatives remitted certain correspondence to the second respondent in respect of the alleged unlawful dispossession of the estate assets.

The applicant alleges that on 1 May 2025 she was contacted by a person allegedly interested in buying the deceased's house, and the applicant was allegedly shocked to realise that the immovable property was for sale and advertised on a Private Property website. The applicant, thereafter, met with her attorneys on 2 May 2025.

The Master, the third respondent, refused to accept the purported will on 14 October 2024. The applicant became aware thereof at the latest on or about 21 October 2024, and became aware that the first and second respondents intended to continue with the administration of the estate notwithstanding the purported will of the deceased.

Thereafter, the applicant brought urgent proceedings during December 2024 that were struck off the roll for a lack of urgency. Search and seizure proceedings at the instance of the first and second respondents took place during January 2025.

An advert for the sale of the estate immovable property was published on 17 February 2025. The applicant threatened to bring urgent

interdictory proceedings preventing the administration of the estate by the first and second respondents if they did not adhere to certain demands made by the applicant in terms of correspondence of 17 February 2025. The first and second respondents refused to give the requested undertakings and indicated to the applicant that the administration of the estate would continue.

Thereafter, well knowing that the administration of the estate would continue, including procedures aimed at selling the estate's immovable property, the applicant did nothing for almost three months. The applicant states specifically in the founding affidavit that she became aware that the estate's immovable property was placed on the market on 17 February 2025. The applicant did nothing in that respect.

Thereafter, the applicant alleges that she was shocked to realise on 2 May 2025, that the estate's immovable property was for sale.

In the circumstances, the first and second respondents' allegation that the applicant's urgency is self-created is not without merit. The applicant's allegations that she became aware of the potential sale of the immovable property on 2 May 2025 or thereabouts, are markedly vague and unsubstantiated. The applicant did not furnish the name of the person who allegedly brought as much to the attention of the applicant. The website to which the applicant refers is the website of Property 24 and not the website of Private Property.

The applicant is obliged to comply with the requirements of Rule 6(12) of the Uniform Rules of Court, one of which is that the applicant must set forth explicitly the circumstances that allegedly render the matter urgent and secondly, the reason why she claims that she cannot be afforded substantial redress at a hearing in due course.

The first and second respondents' counsel very properly brought to the attention of this court that there is an offer to purchase the immovable property that is being considered by the respondents.

Notwithstanding, the applicant in the founding papers did not set forth why the applicant cannot be afforded substantial redress at a hearing in due course. The requirements of Rule 6(12) are peremptory and the applicant is obliged to comply with both requirements in terms of Rule 6(12).

Notwithstanding, the applicant in her explanation on urgency in her founding papers, fails to allege the reasons why she cannot be afforded or will not be afforded substantial redress at a hearing in due course. No allegations are made by the applicant in that regard.

The applicant has known that the first and second respondents intend proceeding with the administration of the deceased's estate, the search and seizure proceedings in January 2025 being explicit

evidence thereof.

Yet the applicant waited until 9 May 2025 to launch this application and did so based on the allegations allegedly made on 2 May 2025 that do not withstand scrutiny.

In the circumstances, the applicant has failed to comply with the requirements of Rule 6(12) and the application stands to be struck off the roll with costs for lack of urgency.

By virtue of the above mentioned, I grant the following order:

1. The application is struck off the roll for lack of urgency with costs, including costs of counsel on scale B.

I hand down the judgment.

CRUTCHFIELD, J

JUDGE OF THE HIGH COURT

DATE: 23 May 2025.

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Prepared on 10 October 2026 · Esheria