

SOUTH AFRICA / JUDGMENT

Mogapi v Minister of Police (CIV APP FB 02/ 23) [2023] ZANWHC 189 (16 October 2023) [2023] ZANWHC 189

COURT

North West High Court, Mafikeng

BEFORE

DJAJE, MFENYANA, REDDY

CASE / FILE NUMBER

CIV APP FB 02/23

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IN THE HIGH COURT OF
SOUTH AFRICA
NORTH WEST DIVISION –
MAHIKENG
CASE: CIV APP FB 02/
23

Reportable:	YES/ NO Circulate
to Judges:	YES/ NO Circulate
to Magistrates:	YES/ NO Circulate
to Regional Magistrates:	YES/ NO LEND MOGAPI APPELLANT and THE MINISTER OF POLICE RESPONDENT Coram: DJAJE AJP, MFENYANA J and REDDY AJ

Heard:

Delivered: This judgment was handed down electronically by circulation to the parties' representatives by email and release to SAFLII.
The date and time for the hand-down of the judgment is deemed to be 10h00 on 16 October 2023.
Summary: Damages claim – unlawful arrest and detention – failure of trial court to administer prescribed oath in respect of plaintiff and shortcoming in administering oath in respect of certain other witnesses - principles applicable to administering oath discussed – proceedings in respect of merits and quantum set aside – matter remitted to court a quo for trial in respect of merits and quantum before a different presiding Judge.
ORDER
On appeal from: North West Division of the High Court, Mahikeng (Snyman J now Reid J,

sitting as court of first instance):

1
The order of the court a quo is set aside.
2
The matter is remitted for trial before another presiding Judge on both merits and quantum.
3
There is no order as to costs.

JUDGMENT

REDDY AJ

Introduction

- [1] This opposed appeal, with leave of the court a quo, is against an award of damages in an amount of R15 000 arising from the unlawful arrest and detention of the plaintiff and the failure of the court a quo to make an order for interest on the claim.

- [2] The appellant in an amended Notice of Appeal seeks an order that the respondent be ordered to pay the appellant an amount of R100 000, with interest on the aforesaid amount at the prescribed rate of interest at 10% per annum from the date of service of the appellant's notice in terms of section 3(1) of the Institution of Legal Proceedings against Certain Organs of State Act 40 of 2002 has been effected on the respondent to date of payment.

Background

- [3] On 11 November 2019 at 18h00, the appellant was subjected to a warrantless arrest on an allegation of contravening section 36 of the General Law Amendment Act 62 of 1955, which broadly framed creates an offence where any person who is found in possession of any goods, in regard to which there is reasonable suspicion that the goods have been stolen and is unable to give satisfactory account of such possession. The appellant was charged at Stella Police Station and thereafter detained at the holding cells at Pudimoe Police Station until her release from custody on 12 November 2019.

- [4] As a result of the appellant's unlawful arrest and detention, an action was instituted against the respondent ('the Minister of Police') for delictual damages in the amount of R500 000.00

together with interest at the prescribed rate of interest from the date of service of the Notice in terms of section 3(1) of the

Institution of Legal Proceedings Against Certain Organs 40 of 2002.

- [5] The trial proceeded before the court a quo on both merits and quantum with no separation of liability and merits in terms of Rule 33(4) of the Uniform Rules of Court ("the Rules"). The court a quo found that the appellant had been unlawfully arrested and detained and awarded an amount of R15 000, with no ancillary order for legal interest.

- [6] The finding of the court a quo that the arrest and detention of the appellant was unlawful is not assailed by way of a counter appeal from the respondent.

An issue identified on appeal (after argument by Counsel)

- [7] In the preparation of judgment and whilst carefully traversing the record, I formed a prima facie view that the prescribed oath applicable to witnesses in court proceedings was either not correctly administered in respect of the appellant or not administered at all; and that the oath administered to the appellant was not fully administered in accordance with accepted practice for administering of oaths. The admissibility of the evidence of the appellant is therefore brought into sharp focus.
- [8] My prima facie view was raised with the Acting Judge President who consequently had a directive issued by the Registrar of the Court, addressed to the parties in the following terms:

“Kindly note I was directed by the Court to request both parties to submit Heads of Argument addressing the oath administered for the plaintiff during the trial. Further note that Heads of arguments should deal with whether the oath was properly administered or not and the reasons for their submission.

Kindly take further note that such heads must be filed at the Office of the Registrar on or before close of business on the 29th of August 2023....”

[9] Mr Nienaber for the appellant accepted the invitation and responded to the Directive on 23 August 2023 as follows:

“..... The issue raised never formed part of what served before the Court of Appeal and need to be investigated which will require further

consultation with the Plaintiff, Counsel and the further transcription and perusal of the record.

From the transcribed record as it stands, it is evident that the oath was administered (to all the witnesses) through an interpreter, which interpretation does not form part of the transcribed record. Therefore, before we will be in a position to fully answer to the query raised, and to properly and fairly deal with the aspect, we hold the view that we should be allowed the opportunity to listen to the recording, together with an interpreter, so that the interpretation to the witnesses may be ascertained.

We hold the view that the Plaintiff understood that she was under oath which forms a subjective test. This, we believe, is an important aspect to consider. However, we are not sure on how to present such evidence to the Honourable Court.

Will we be allowed to file an affidavit from the Plaintiff dealing with the and how she understood the interpretation put to her by the interpreter?

The investigation including the possible transcription and translation of the interpreter’s explanation of the oath unfortunately also holds a cost implication and time is needed to take adequate instructions.

Having further regard to the fact that the matter served before the full Court on 9 June 2023 already, the time provided is extremely short.

We would need an extension of time for the filing of heads of argument as we are effectively given 4 days to attend to the above, consider and prepare the heads.

It is therefore not possible to provide the heads of argument by 29 August 2023.

Could I enquire at this stage, whether the Department of Justice would be able to assist to have that portion of the record which includes the translation thereof transcribed as this was essentially and administrative and procedural step which the Court administered and not in the control of any of the parties. If not, whether the actual recording may be made available and further alternatively, that a quotation for the transcription be obtained.

I also request that a reasonable time be provided to complete the investigation, including the time needed to obtain the transcription and translation, where after time limits for the filing of heads may be considered.”

[10] Miss Williams for the respondent failed to reply to the Directive of this Court. I am constrained to make a few general comments regarding the purpose of a Directive when issued by any Court. First and foremost, a directive must not be viewed as a source of irritation to litigants. Providing litigants with a directive, inviting comments encapsulates the concept of audi alteram partem, which as a principle of natural justice, forms a foundational part of fair procedure. This principle of natural justice requires that each party be given a fair opportunity to address any anxiety that a Court may have to in order to arrive at an informed decision. The submissions and proposals for further investigations as requested by Mr Nienaber, the attorney of record, for the appellant does not take the matter further. The issue that was alluded to in the Directive by this Court is crisp. The complete transcribed record is before the court. No further affidavits need to be deposed to. In the instance of the appellant, the language service practitioner was not used as an independent conduit by the court a quo in the administering oath. The extracts from the record to be referred to set out the exchange that occurred in the administering of the oath. The submissions made by Mr Nienaber that the record be listened to, is of no moment, given the record that is laid before this Court.

[11] The respondent, in accordance with established jurisprudence had a duty to justify the lawfulness of the arrest of the appellant and as such had the duty to begin. See *Duncan v Minister of Law and Order* 1986

(2) SA 805 AD at 818G-H, *Minister of Safety and Security v Sekhoto and Another* 2011(5) SA 367 (SCA). The respondent called three witnesses to testify. To fully appreciate the concern raised in the Directive of this Court, the relevant portions of the transcribed record in respect of the administering of the oath in respect of the respondents’ witnesses is necessary.

GOITSEMODIMO ALFRED KGAMANYANE

COURT: Thank you, the witness may be sworn in.

WITNESS: My full names are Goitsemodimo Alfred Kgamanyane. I will speak Setswana.

GOITSEMODIMO ALFRED KGAMANYANE (d.s.s)

INTERPRETER: Sworn in.

COURT: Thank you very much. Ms Williams you may proceed.

GLADWIN OLEBOGENG NKELE

COURT: Could you please state your full names for the record?

WITNESS: Gladwin Olebogeng Nkele

COURT: In what language would you prefer to testify?

WITNESS: Setswana

COURT: Do you have any objection against the oath?

WITNESS: No objection.

COURT: Do you swear the evidence you are about to give is the truth the whole truth and nothing but the truth?

WITNESS: Yes Your Worship.

COURT: Please raise your right hand and say so help me God.

WITNESS: Yes, so help me God.

GLADWIN OLEBOGENG NKELE (d.s.s) [Through interpreter]

KEALETILE JULIA ITSHEGETSENG

COURT: And do you have any objection against taking the oath?

WITNESS: No I do not have.

COURT: Do you swear that the evidence you about to give is the truth the whole truth and nothing but the truth?

WITNESS: Yes.

COURT: Please raise your right hand an say so help me God.

WITNESS: So help me God.

KEALETILE JULIA ITSHEGETSENG (d.s.s)

[12] At the close of the case for the respondent, the appellant testified. The oath was administered as follows in respect of the appellant and her witness.

THE PLAINTIFF

MS SMIT: As it pleases the court, M' Lady. M' Lady with the permission of the court, may I beg leave to call the plaintiff to the witness stand?

COURT: Yes, the plaintiff can be called.

MS SMIT: As it pleases the court.

COURT: Good Morning Ma'am, What are your full names?

MS MOGAPI: Lend Mogapi.

COURT: Do you have any objection against taking the oath?

MS MOGAPI: No objection.

COURT: Ms Mogapi, I am going to request you that when you speak, to speak out loud. It is very important that the microphone in front of you catches every word that you say.

MS MOGAPI: Yes, M' Lady.

COURT: Do you consider the oath to be binding on your conscience?

MS MOGAPI: Yes

COURT: Please raise your right hand and say ' So help me God'

MS MOGAPI: So help me God.

COURT: Thank you

LEND MOGAPI (d.s.s)

COURT: Thank you, Ms Smit, you may proceed.

MS SMIT: As it please the court, M'Lady. M'Lady, as a starting [intervenes]

COURT: You are welcome to sit.

MOTINYANE SIMON MARUPING

MS SMIT: As it pleases the court, thank you M'Lady. M'Lady, the next witness and the final witness for the plaintiff is Mr Simon Maruping.

COURT: I see that it is 12:25. The extent of this witness evidence would you be able to finish it after lunch?

MS SMIT: M' Lady, I believe so. From evidence-in-chief it will not be long. It pertains mainly about his presence at the house and the conversation at the police station. I believe the length thereon depends on the cross examination.

COURT: Yes. Then you may call the next witness to the witness stand.

COURT: Thank you. Good Afternoon, sir. Could you please state your full names for the record?

MR MARUPING: Motinyane Simon Maruping

COURT: Mr Maruping, do you have any objection against taking the prescribed oath.

MR MARUPING: No objection.

COURT: Do you swear that the evidence you are about to give is the truth, the whole truth and nothing but the truth?

MR MARUPING:

COURT: Do you consider the oath to be binding on your conscience?

MR MARUPING: Yes. So help me God.

COURT: Thank you.

MOTINYANE SIMON MARUPING (d.s.s)

COURT: Thank you. In what language do you prefer to testify.

MR MARUPING: Setswana.

COURT: (As per court record)

Legal framework

[13] At the genesis of this exercise, I place store on a trite legal principle that substance assails form. This indisputably finds application in casu. There is no underscoring that witnesses in a civil trial must be examined under oath and that the evidence of a witness who has not been sworn in lacks the status and character of admissible evidence. The fundamental rationale for giving evidence under oath (affirmation or admonishment) is to ensure that the evidence is reliable.

[14] In *S v Munn* 1973 (3) at 736E-737C (NCD) the following was stated as regards the history and efficacy of the oath:

.... I ignore the oath under previous practice when it was regarded as the equivalent of a *iudicium Dei*; but since the time when oral testimony was, apparently reluctantly, permitted in addition to circumstantial evidence as having probative value, courts have attempted to provide a stimulus to truthfulness in witnesses in judicial proceedings by the sanction of punishment, in this world or the next, for falsity. An oath is no more than a calling on God to punish you if you say what is not true; and, if it is to be clothed with any efficacy, it can matter little what words or ceremonies are used in imposing it, provided the witness regards his conscience as bound thereby.

The purpose of administering an oath - normally before a witness testifies - is to ensure that he does not speak lightly and frivolously, but weighs his words; to impress on him the solemnity of the occasion, and above all to provide a sanction against untruthfulness. Originally the sanction lay solely in fear of deferred punishment by God. This subjective potency of the oath has tended to diminish and been reinforced by the sanction of more immediate punishment by the State, as well as being extended to extrajudicial proceedings by statute. And courts and commissioners of oaths have inclined in modern times to fritter away the effect of the spiritual sanction by administering the oath in irreverent and perfunctory fashion, without giving its theoretical reinforcement effect, by informing or reminding witnesses of the temporal one. See Wigmore, secs. 1815 et seq.

The valid criticism of ‘the thoughtless, trivial, and degenerate modern practice’ by Wigmore, vol VI, p. 295, in all probability led to the promulgation, in terms of Act 16 of 1963, of the new regulations contained in Government Notice R.1258 published in Government Gazette dated 21.7.1972.”

- [15] In embarking on an exercise of juxtaposing, the administering of the oath of all the witnesses that testified during the trial in the court a quo was to explicitly demonstrate that substance assails form. Regarding the evidence of Kgamanyane, the language service practitioner was used as a conduit to administer the oath. This is a legally permissible procedure given this Court’s inherent power to protect and regulate its own process. See s173 of the Constitution of the Republic of South Africa, 1996. It is undeniable that the oath was correctly administered in respect of the second and third witnesses for the respondent.
- [16] The administering of the oath in respect of the appellant was founded wholly on two questions, do you have any objection in taking the prescribed oath and do you consider the oath binding on your conscience? Then what followed, was a statement requiring of the appellant to “Please raise your right hand and say “So help me God”, to which the appellant acquiesced. In the administering of the oath there was no invocation that the appellant was called upon to tell the truth.
- [17] In *S v Baadjies* 2017 (2) SACR 366 (WCC) the following was posited as regards the oath apropos to an invocation to tell the truth:

“Experience shows that even in cases where witnesses are much older than the complainant the word ‘oath’ remains a nebulous concept, whereas the invocation to tell the truth is more readily appreciated and understood. The transcript demonstrates unequivocally that the judge was satisfied that the complainant comprehended the difference between truth and falsehood, and his admonishment that she speaks the truth was in my view sufficient to render the complainant’s evidence admissible.”

- [18] The two open ended questions did not lead to the invocation to tell the truth. The inclusion of the phrase “So help me God” does little to cohere with the purpose of the oath, to tell the truth. The Civil Proceedings Evidence Act 25 of 1965(“the CPEA”) provides as follows:

“39 Oaths

- (1) No person other than a person referred to in section forty or forty one shall be examined as a witness otherwise than upon oath.
- (2) The oath to be administered to any person as a witness shall be administered in the form which most clearly conveys to him the meaning of the oath and which he considers to be binding on his conscience.

40 Affirmations in lieu of oaths

- (1) In any case where any person who is or may be required to take an oath objects to do so, it shall be lawful for such person to make an affirmation in the words following:

'I do truly affirm and declare that'

(here insert the matter to be affirmed or declared).

- (2) Any person authorized, required or qualified by law to take or administer an oath shall accept, in lieu thereof, an affirmation or declaration as aforesaid.
- (3) Such affirmation or declaration shall be of the same force and effect as if the person who made it had taken such oath, and the same penalties and disabilities which are respectively in force in respect of and are attached to any false or corrupt taking and subscribing of any oath administered in accordance with section thirty -nine, and any neglect or refusal in regard thereto, shall apply and attach in like manner in respect of the false or corrupt making or subscribing respectively, of any such affirmation or declaration as in this section mentioned and any neglect or refusal in regard thereto.”

[19] Section 39(1) of the CPEA provides for the peremptory administering of the oath subject to the exception evinced in section

- 41. The oath is to be administered in a form which most clearly conveys to the witness the meaning of the oath and which the witness considers to be binding on his/her conscience. Whilst a cogent argument may be advanced that the evidence of the appellant who testified in the manner was not any less reliable because of the absence of an explanation regarding the meaning of the oath, that maybe premature.

[20] The architecture of section 39 of the CPEA, makes it peremptory for a witness to take the oath or affirmation to render his or her evidence admissible. The exception to the latter is contained in section 41 of the CPEA which provides:

41 When unsworn or unaffirmed testimony admissible

- (1) Any person who, from ignorance arising from youth, defective education or other cause, is found not to understand the nature or to recognize the religious obligation of an oath or affirmation, may be permitted to give evidence in any civil proceedings without being upon oath or affirmation, if, before any such person proceeds to give evidence, the person presiding at the proceedings in which he is called as a witness, admonishes him to speak the truth, the whole truth and nothing but the truth and administers or causes to be administered to him any form of admonition which appears, either from his own statement or from any other source of information, to be calculated to impress his mind and bind his conscience, and which is not, as being of an inhuman, immoral or irreligious nature, obviously unfit to be administered.
- (2) Any person to whom an admonition has been administered as aforesaid, who in evidence wilfully and falsely states anything which, if sworn, would have amounted to the offence of perjury or any statutory offence punishable as perjury, shall be deemed to have committed that offence, and shall upon conviction be liable to such punishment as is by law provided as a punishment for that offence. “

[21] To my mind, central to the present enquiry is whether the purpose as displayed in section 39(1) of the CPEA has been achieved in its current form. To this end, a specific word template is unprescribed as to the manner that the oath must be administered. It is the substance of the oath that informs the reliability of the evidence. For the oath to be taken in substance calls for an interpretation of section 39 of the CPEA. This requires determining the intention of the legislation.

[22] Intrusive in respect of the interpretation of legislation is the seminal authority of *Natal Joint Municipal Pension Fund v Endumeni Municipality* 2012 (4) SA 593 (SCA) at para [18] and *Bothma-Batho Transport (Edms) Bpk v S Bothma & Seun Transport (Edms) Bpk*. 2014 (2) SA 494(SCA) at paras [10] to [12].

[23] In *Bothma-Batho Transport*, the Supreme Court, enunciated the fundamentals of interpretation at paragraphs [10]- [12] as follows:

[10] In *Natal Joint Municipal Pension Fund v Endumeni Municipality* the current state of our law in regard to the interpretation of documents was summarised as follows:

‘Over the last century there have been significant developments in the law relating to the interpretation of documents, both in this country and in others that follow similar rules to our own. It is unnecessary to add unduly to the burden of annotations by trawling through the case law on the construction of documents in order to trace those developments. The relevant authorities are collected and summarised in *Bastian Financial Services (Pty) Ltd v General Hendrik Schoeman Primary School*. The present state of the law can be expressed as follows: Interpretation is the process of attributing meaning to the words used in a document, be it legislation, some other statutory instrument, or contract, having regard to the context provided by reading the particular provision or provisions in the light of the document as a whole and the circumstances attendant upon its coming into existence. Whatever the nature of the document, consideration must be given to the language used in the light of the ordinary rules of grammar and syntax; the context in which the provision appears; the apparent purpose to which it is directed and the material known to those responsible for its production. Where more than one meaning is possible each possibility must be weighed in the light of all these factors. The process is objective, not subjective. A sensible meaning is to be preferred to one that leads to insensible or unbusinesslike results or undermines the apparent purpose of the document. Judges must be alert to, and guard against, the temptation to substitute what they regard as reasonable, sensible or businesslike for the words actually used. To do so in regard to a statute or statutory instrument is to cross the divide between interpretation and legislation; in a contractual context it is to make a contract for the parties other than the one they in fact made. The inevitable point of departure is the language of the provision itself¹, read in context and having regard to the purpose of the provision and the background to the preparation and production of the document.

[11] That statement reflected developments in regard to contractual interpretation in *Masstores (Pty) Ltd v Murray & Roberts Construction (Pty) Ltd*; *KPMG Chartered Accountants (SA) v Securefin Ltd & another* and *Ekurhuleni Municipality v Germiston Municipal Retirement Fund* I return to it and to those cases only because we had cited to us the well-known and much cited summary of the earlier approach to the interpretation of contracts by Joubert JA in *Coopers & Lybrand & others v Bryant*, that:

‘The correct approach to the application of the ‘golden rule’ of interpretation after having ascertained the literal meaning of the

word or phrase in question is, broadly speaking, to have regard:

- (1) to the context in which the word or phrase is used with its interrelation to the contract as a whole, including the nature and purpose of the contract ... ;
- (2) to the background circumstances which explain the genesis and purpose of the contract, ie to matters probably present to the minds of the parties when they contracted. . ;
- (3) to apply extrinsic evidence regarding the surrounding circumstances when the language of the document is on the face of it ambiguous, by considering previous negotiations and correspondence between the parties, subsequent conduct of the parties showing the sense in which they acted on the document, save direct evidence of their own intentions.

[12] That summary is no longer consistent with the approach to interpretation now adopted by South African courts in relation to contracts or other documents, such as statutory instruments or patents.[6] Whilst the starting point remains the words of the document, which are the only relevant medium through which the parties have expressed their contractual intentions, the process of interpretation does not stop at a perceived literal meaning of those words, but considers them in the light of all relevant and admissible context, including the circumstances in which the document came into being. The former distinction between permissible background and surrounding circumstances, never very

clear, has fallen away. Interpretation is no longer a process that occurs in stages but is ‘essentially one unitary exercise’.

Accordingly, it is no longer helpful to refer to the earlier approach.” (Footnotes omitted)

[24] In *Endumeni* the following was posited regarding interpretation of legislation at paragraph [18]

“Interpretation is the process of attributing meaning to the words used in a document, be it legislation, some other statutory instrument, or contract, having regard to the context provided by reading the particular provision or provisions in the light of the document as a whole and the circumstances attendant upon its coming into existence. Whatever the nature of the document, consideration must be given to the language used in the light of the ordinary rules of grammar and syntax; the context in which the provision appears; the apparent purpose to which it is directed and the material known to those responsible for its production. Where more than one meaning is possible each possibility must be

weighed in the light of all these factors. The process is objective not subjective. A sensible meaning is to be preferred to one that leads to insensible or unbusinesslike results or undermines the apparent purpose of the document. Judges must be alert to, and guard against, the temptation to substitute what they regard as reasonable, sensible or businesslike for the words actually used. To do so in regard to a statute or statutory instrument is to cross the divide between

interpretation and legislation.”

- [25] The question of interpreting of legislation has enjoined the attention of the Constitutional Court, in *Allpay Consolidated Investment holding (Pty) Ltd and Others v Chief Executive Officer of the South African Social Security Agency and Others*, 2014 (1) SA 604 (CC); 2014 (1) BCLR 1, at para. 30.

*“[30] Assessing the materiality of compliance with legal requirements in our administrative law is, fortunately, an exercise unencumbered by excessive formality. It was not always so. Formal distinctions were drawn between ‘mandatory’ or ‘peremptory’ provisions on the one hand and ‘directory’ ones on the other, the former needing strict compliance or even noncompliance. That strict mechanical approach has been discarded. Although a number of factors need to be considered in this kind of enquiry, the central element is to link the question of compliance to the purpose of the provision. In this court O’Regan J succinctly put the question in *ACDP V Electoral Commission* as being ‘whether what the applicant did constituted compliance with the statutory provisions viewed in the light of their purpose’. (Emphasis added)*

- [26] What is apparent from section 39(1) of the CPEA, was to make it explicit that a witness who was about to testify should speak the truth, the whole truth and nothing but the truth. In the administering of the oath on the appellant, the words impressing on the appellant to tell the truth do not feature, in whatever form.
- [27] As I see it, to simply take an oath is not synonymous with the assurance that a witness will speak the truth, the whole truth and nothing but the truth. Half-truths or an affinity to be partially truthful does not engender the reliability that is required in the evidence of a witness to be of assistance to a court in arriving at a decision. In this instance, an informed decision on the merits and quantum that should be ordered. To this end, in my view, the oath unaccompanied by adequate indication that the truth in its full conspectus be told, results in an improper administering of the oath. Witnesses may accede to the taking of the oath, which may at first blush be an abstract concept, but what informs the severity of the occasion is the call to speak the truth. This was omitted by the court a quo. It is therefore a matter of fact, that the administering of the oath to the appellant had not achieved the purpose that the oath was intended for, notwithstanding the use of the words “So help me God.”

[28] I am therefore constrained to find that the oath was not properly administered as there was no innovation to tell the truth. It axiomatically follows that the appellant's evidence did not have the status and character of admissible evidence. Resultantly, as there was no separation on merits and quantum, the entire conspectus of the appellant's evidence was inadmissible. Regarding costs, given the finding of this Court, there should be no order as to costs.

[29] In the premises I make the following order:

- (i) The order of the court a quo is set aside.
- (ii) The matter is remitted for trial before another presiding Judge on both merits and quantum.
- (iii) There is no order as to costs.

A REDDY'

ACTING JUDGE OF THE HIGH COURT,

NORTH WEST DIVISION, MAHIKENG

I AGREE

J T DJAJE

ACTING JUDGE PRESIDENT OF THE HIGH COURT OF

SOUTH AFRICA NORTH WEST DIVISION, MAHIKENG

S MFENYANA

JUDGE OF THE HIGH COURT OF

APPEARANCES

Date of Hearing: 9 June 2023 Further Heads Required: 22 August 2023 Date of Judgment: 16 October 2023 Counsel for Applicant: Adv D Smit Attorney for Applicant: Nienaber & Wissing Attorneys 10 Tillard Street Mahikeng Counsel for Defendant: Adv Z Williams Attorneys for Defendant State Attorneys Cnr Sekame Road 1st Floor, East Gallery Megacity Complex Mmabatho

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