

SOUTH AFRICA / JUDGMENT

Rabie v Rabie (55793/2014) [2017] ZAGPPHC 241 (13 March 2017)

[2017] ZAGPPHC 241

COURT

North Gauteng High Court, Pretoria

BEFORE

MP Mdalana-Mayisela

CASE / FILE NUMBER

55793/2014

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IN THE HIGH COURT OF SOUTH AFRICA

(GAUTENG DIVISION, PRETORIA)

Case number: 55793/2014

Date: 13/3/2017

Reportable: No

Of interest to other judges: No

Revised.

In the matter between:

FRANS JOHANNES RABIE APPLICANT

And

ELMINE RABIE RESPONDENT

JUDGMENT:

REVIEW OF TAXATION

MDALANA-MAYISELA AJ.

- (1) On 13 August 2016 this court dismissed the urgent application brought by the applicant and ordered the applicant to pay respondent's costs. The respondent presented her bill of costs which included fees for two days in respect of her attorney and counsel. The applicant's cost consultant settled the taxed bill with the respondent's cost consultant and allowed the respondent's attorney and counsel two day fees.

- (2) The applicant served a notice of review In terms of Rule 48 of the Uniform Rules of Court on the respondent's attorney in respect of the taxed two day fees of the respondent's attorney and counsel. The respondent's attorney obtained a writ of execution for the full taxed amount and served it on the applicant. The applicant brought the application to have the execution of the writ stayed pending the review application. Two days before the hearing of the application, the applicant withdrew the application and tendered costs. The respondent presented its bill of costs to the taxing master and it was taxed on 18 March 2016.
- (3) On 15 April 2016 the applicant served a notice in terms of Rule 48 of the Uniform Rules of Court for the review of taxation. On 12 December 2016 the respondent served her written submissions in terms of Rule 48(5)(a). The respondent submitted that the review of taxation brought by the applicant is out of time and should be dismissed with costs.
- (4) Rule 48(1) of the Uniform Rules of Court provides that any party dissatisfied with the ruling of the taxing master as to any item or part of an item which was objected to or disallowed mero motu by the taxing master may within fifteen (15) days after the allocator by notice require the taxing master to state a case for the decision of a judge. The applicants notice of review of taxation is dated 14 April 2016 and it was served on 15 April 2016. The allocator in the matter is dated 18 March 2016. The applicant failed to serve its notice of review of taxation within fifteen (15) days provided for by Rule 48(1). The applicant had not applied for condonation of the non-compliance with Rule 48(1).
- (5) In the circumstances, I make the following order:

The application dated 14 April 2016 is dismissed with costs.

Acting Judge MP Mdalana-Mayisela

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