

SOUTH AFRICA / JUDGMENT

Rikhotso and Others v Bothongo and Others (Variation of Order) (JS243/23; JS215/23) [2024] ZALCJHB 514 (15 October 2024) [2024] ZALCJHB 514

COURT

Labour Court Johannesburg

BEFORE

M T M Phehane

CASE / FILE NUMBER

JS243/23; JS215/23

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THE LABOUR COURT OF SOUTH AFRICA, JOHANNESBURG

Not Reportable

Case No: JS243/23

In the matter between:

FANYANA WESLIE RIKHOTSO AND 5 OTHERS Applicant and MOHADUBA BOTHONGO First Respondent A DU TOIT Second Respondent B SCHWARTZ Third Respondent AND Case no: JS 215/23 FANYANA WESLIE RIKHOTSO AND 24 OTHERS Applicant and MOHADUBA BOTHONGO First Respondent A DU TOIT Second Respondent B SCHWARTZ Third Respondent

Heard: 9 October 2024

Delivered: 15 October 2024

VARIATION OF ORDER

PHEHANE, J

- [1] On 9 October 2024 a default judgement application under the consolidated case numbers JS 215/23 and JS 243/23 served before me. Mr. Rikhotso, the applicant was self-representing at the hearing.
- [2] The content of the Court file is in a total state of disarray, as it contains various documents relating to different respondents and unbound papers.
- [3] It transpires that different respondents are cited in the pleadings contained in the Court file. The following are cited as respondents under the same aforesaid case numbers: Way Gard Security SA as the first respondent and Way Gard Drift Security as the second respondent.

- [4] On 23 August 2023, van Niekerk J (as he then was), issued a court order consolidating case numbers JS 215/23 and JS 243/23 in the disputes between Rikhotso and 5 others versus Mohabuda Bothongo, A du Toit and B. Schwartz and Rikhotso and 24 others versus the same respondents.
- [5] On 31 January 2024, the consolidated case was enrolled for the hearing of a default judgment application. On that date, Makhura J issued an order removing the matter from the roll to afford the applicants an opportunity to amend their papers. It is unclear what pleadings were before Makhura J at the time, as the respondent cited in the Court order is Bothongo Group.
- [6] On 11 June 2024 the matter was enrolled for the hearing of a default judgment application once again. On this date, Notshe AJ issued an order removing the matter from the roll for the reason that there is no proof that the dispute was referred to the Commission for Conciliation, Mediation and Arbitration (CCMA) or the bargaining council. Again, it is unclear what pleadings were before Notshe AJ.
- [7] On 9 October 2024, the matter served before me for the hearing of a default judgment application. It transpires that different respondents (Way Gard) are now cited as respondents in a statement of claim filed under the same consolidated case numbers on 6 February 2024. Interestingly, the certificate of outcome on page 111 of the pleadings bundle relates to Fanyana Rikhotso and 12 others against Wayguard Security issued on 9 July 2024. Further, annexures in the form of confirmatory affidavits bearing case numbers JS243/23 and JS 215/23 together with unexplained payslips and correspondence are filed with this statement of claim.
- [8] Given this state of affairs, I could not make out which case is before me, and which parties are before me. Only one affidavit in the mountain of papers was filed by Mr. Rikhosto in support of a default judgment application. Mr. Rikhotso could not assist the Court in explaining who the correct applicants are: he made matters worse and said there are twelve remaining applicants.
- [9] I therefore issued an order removing the matter from the roll and further orders.

Variation of order

- [10] In view of the confusion as to who the correct parties are before this Court and given the state of the Court file, the order is varied as follows:

VARIED ORDER

1. The matter is removed from the roll.
2. The applicant is to approach the pro bono office for assistance in the further conduct and prosecution of this application.

M. T. M. Phehane

Judge of the Labour Court of South Africa

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ORIGINAL SOURCE <https://www.saflii.org/za/cases/ZALCJHB/2024/514.html>

CASE PAGE <https://chat.esheria.ai/case-law/south-africa/rikhotso-and-others-v-bothongo-unknown-topic-alcjhb-2024>

Prepared on 10 October 2026 · Esheria