

SOUTH AFRICA / JUDGMENT

Sibanye Still Water N.O and Others v Xinshe (M98/2022) [2025] ZANWHC 102 (17 June 2025) [2025] ZANWHC 102

COURT

North West High Court, Mafikeng

BEFORE

T Masike

CASE / FILE NUMBER

M98/2022

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IN THE HIGH COURT
OF SOUTH AFRICA
NORTH WEST
DIVISION, MAHIKENG
CASE
NO.: M98/2022

In the matter between:

SIBANYE STILL WATER
N.O
1st APPLICANT
AMANDA ZOLISA CUBA
N.O
2nd APPLICANT
MURIEL SIZIWE NJOKWENI
N.O
3rd APPLICANT
And
RUEBEN XINISHE
RESPONDENT

In re:

RUEBEN
XINISHE
APPLICANT
SIBANYE STILL WATER
N.O
1st RESPONDENT
AMANDA ZOLISA CUBA
N.O
2nd RESPONDENT
MURIEL
SIZIWE NJOKWENI NO
3rd
RESPONDENT
CORAM: MASIKE AJ
ORDER

1.

The request for written reasons for the order dated 20 March 2025 is premature and accordingly cannot be entertained.

JUDGMENT

MASIKE AJ

INTRODUCTION

- [1] This matter served before this Court on 20 March 2025 as an interlocutory application in terms of which the applicants (first, second and third respondent in the main application) sought relief against the respondent (applicant in the main application) in the following terms:

“1. In respect of the application launched by the respondent (as applicant) in the above Honourable Court under case number M98/2022 (the impugned application);

1.1 the respondent (applicant in the impugned application) is ordered to furnish security for the applicants’ costs of the application in an amount to be fixed by the Registrar of the Court, such security to be furnished within 10 days after date of judgment;

1.2 the applicants are granted leave to apply, on the same papers, for the dismissal of the impugned application against them if the respondent fails to comply with the order in paragraph 1.1 above.

2. The respondent is ordered to pay the costs of this application on the attorney client scale;
3. Further and/or alternative relief,”

- [2] Having heard the matter on 20 March 2025, the Court made an order without furnishing any reasons which reads as follows:

“1. Respondent (Applicant in the main application) is ordered to furnish security for costs of the application in an amount to be fixed by the Registrar of this Court, such security for costs to be furnished within 10 (ten) days of the date of this order.

2. The Applicant herein (first and second Respondents in the main application) are granted leave to apply on the same papers, (duly supplemented as necessary) for an order dismissing application if the Respondent fails to comply with the order in paragraph 1.
3. The Respondent is ordered to pay the costs of this application on an Attorney – Client Scale.”
- [3] On 10 April 2025, a notice to request reasons for the judgment / order in terms of Rule 49 (request for written reasons) was filed in the office of the registrar of the court. This notice was brought to this Court’s attention on 14 April 2025.
- [4] None of the parties lodged an application for reasons to be furnished within the period stipulated in rule 49(1)(c) of the Uniform Rules of the Court. This rule is peremptory.

THE LAW

- [5] Rule 49(1)(c) reads as follows:

“(c) When in giving an order the court declares that the reasons for the order will be furnished to any of the parties on application, such application shall be delivered within ten days after the date of the order.”

DISCUSSION

- [6] Parties in litigation are entitled to reasons for an order or judgment following upon the hearing of the matter by the court for numerous reasons. The most palpable being to enable the litigants to decide if the order or judgment of the court is to be taken on appeal or not. When an order or judgment of the court is sought to be taken on appeal, written reasons are indispensable. Failure to supply them will usually be a grave lapse of duty, a breach of a litigant’s rights, and an impediment to the appeal process. (See: Strategic Liquor Services v Mvumbi NO 2010
- (2) SA 92 (CC) at 96G–97A).
- [7] In terms of rule 49(1)(c), the respondent was obliged to have filed an application for the written reasons for the order or judgment the Court made on 20 March 2025, within a period of 10 (ten) days after the date of the order. The respondent was obliged to file the application for request for written reasons by no later than 4 April 2025.
- [8] Rule 27(1), (2) and (3) of the Uniform Rules of Court reads as follows:
- “27 Extension of time and removal of bar and condonation*

- (1) In the absence of agreement between the parties, the court may upon application on notice and on good cause shown, make an order extending or abridging any time prescribed by these rules or by an order of court or fixed by an order extending or abridging any time for doing any act or taking any step in connection with any proceedings of any nature whatsoever upon such terms as to it seems meet.
- (2) Any such extension may be ordered although the application therefor is not made until after expiry of the time prescribed or fixed, and the court ordering any such extension may make such order as to it seems meet as to the recalling, varying or cancelling of the results of the expiry of any time so prescribed or fixed, whether such results flow from the terms of any order or from these rules.
- (3) The court may, on good cause shown, condone any non-compliance with these rules.”
- [9] It is not stated in the request for written reasons filed on behalf of the respondent if the applicants consented to the late filing of the request for written reasons.
- [10] The request for written reasons was not accompanied by a court order condoning the late filing of the request for written reasons.
- [11] It follows from the reading of rule 27(1) and (3), that it is peremptory for a party who is in breach of any provision of the rules of the Honourable Court in respect of doing any act or taking any step in connection with any proceedings of any nature, to bring an application on notice and on good cause shown for an order extending or abridging any time for doing any act or taking any step in connection with any proceedings.
- [12] In the absence of consent from the applicants for the respondent to file the request for written reasons outside the prescribed period set out in rule 49(1)(c) and in the absence of an order from the court condoning the late file of the request for written reasons, this Court is not in a position to entertain the request for written reasons filed on 10 April 2025 as the request for written reasons is premature.

ORDER:

- [13] Resultantly, the following order is made: -

1. The request for written reasons for the order dated 20 March 2025 is premature and accordingly cannot be entertained.

T MASIKE

ACTING JUDGE OF THE HIGH COURT SOUTH AFRICA,

NORTH WEST DIVISION, MAHIKENG

APPEARANCES

DATE OF HEARING

20 MARCH 2025

DATE OF ORDER

20 MARCH 2025

DATE OF REQUEST

FOR REASONS :

10 APRIL 2025

DATE OF THIS ORDER

17 JUNE 2025

FOR APPLICANTS :

NO APPEARANCE DECIDED

ON PAPERS FILED

INSTRUCTED BY : CLIFF

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C/O LFS ATTORNEYS INC

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FOR RESPONDENT : NO

APPEARANCE

DECIDED ON PAPERS FILED

INSTRUCTED BY : R.

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Prepared on 10 October 2026 · Esheria