

SOUTH AFRICA / JUDGMENT

Tsutsa v City Power Johannesburg (Soc) Ltd (2024/068636) [2024] ZAGPJHC 609 (27 June 2024) [2024] ZAGPJHC 609

COURT

South Gauteng High Court, Johannesburg

BEFORE

GC Wright

CASE / FILE NUMBER

2024/068636

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IN THE HIGH COURT OF SOUTH AFRICA

GAUTENG DIVISION, JOHANNESBURG

Case

NO: 2024-068636

1.

REPORTABLE:

2.

OF INTEREST TO OTHER
JUDGES:

3. REVISED

27

June 2024

In the matter between:

LEBOHANG RUTH

TSUTSA

Applicant

(ID NO: 8[.])

and

CITY POWER JOHANNESBURG (SOC)

LTD RESPONDENT

JUDGMENT**WRIGHT J**

1. The applicant, Ms Tsutsa lives in a sectional title complex with her three year old daughter. Her unit is one of four in the complex.
2. Ms Tsutsa seeks urgently re-connection of her electricity to her prepaid meter and an order that it not be disconnected until the dispute with the respondent has been resolved.
3. Ms Tsutsa says that she uses a prepaid meter, that she has never tampered with it and that City Power recently and suddenly, without notice disconnected the supply. She says that she was given the bureaucratic run around, hence the application.
4. The answering affidavit by Mr Monyai, the respondent's head of risk assurance and compliance contains an allegation that Ms Tsutsa has tampered with the meter and for that reason the supply was cut off without notice. Mr Monyai makes the understandable point that illegal connections are dangerous.
5. Mr Monyai says that Ms Tsutsa has not disclosed her history of purchases. A list of purchases for the preceding year is set out in the answering affidavit. According to the affidavit, the amounts purchased are too little for the unit in question.
6. On 22 June 2024, a technician, Mr Mokete, for the respondent inspected the property. Each of the four units has its own prepaid meter. Mr Mokete found that the relevant meter of Ms Monyai is a bulk meter which had held two meters. One, which had been illegally connected was then "disconnected and or removed ". Photos are attached to the answering affidavit.
7. Mr Monyai makes the point that the low purchases, coupled with the illegal connection reflect the ability of Ms Tsutsa to survive over the last year.
8. In reply, Ms Tsutsa raises many points about the reliability of what the respondent says. In particular, she points to many alleged problems relating to what the photos depict.
9. The respondent has cast some doubt, but not sufficient at this stage, on the alleged prima facie right of Ms Tsutsa.
10. However, the boxes for each of the four units are on the complex as a whole but outside each unit. The respondent has not addressed the possibility that the prepaid consumption of the other units is suspiciously low over the last year.
11. I do not read the applicant as dishonest. Nor do I read any of the respondent's deponents as dishonest.
12. I understand the enormous difficulty of the respondent in present trying circumstances relating the demand for power and the supply of power.

13. However, section 28 of the Constitution places the rights of minors, including the three year old girl in this case as paramount.

ORDER

1. A rule nisi is issued, returnable to the opposed motion roll, 27 January 2025 calling upon the respondent to show cause why the following order should not be made final:
2. The respondent is to restore power to and is to supply and install a prepaid meter at the applicant's premises.
3. Costs reserved.
4. Pending the return day, the respondent is, by 5 July 2024 to restore power to and supply and install a prepaid meter at the applicant's premises.
5. It is noted and recorded that the respondent has not agreed to any part of this order and that its rights remain intact.
6. The rights of the respondent to claim a fine from the applicant and to claim from her the cost of supplying and installing the replacement prepaid meter are reserved.
7. The applicant's right to oppose any demand or claim by the respondent remains.

GC Wright

Judge of the High Court

Gauteng Division, Johannesburg

HEARD : 25 & 27 June 2024

DELIVERED : 27 June 2024

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