


iAfrica Transcriptions (Pty) Limited/hvr

IN THE HIGH COURT OF SOUTH AFRICA

(SOUTH GAUTENG HIGH COURT, JOHANNESBURG)

CASE NO: 18353/2011

<b>DELETE WHICHEVER IS NOT APPLICABLE</b>	
(1) REPORTABLE	<u>YES/NO</u>
(2) OF INTEREST TO OTHER JUDGES	<u>YES/NO</u>
(3) REVISED	<u>YES/NO</u>
	
14 X 2011	SIGNATURE

In the matter between

**MAXI DRIVERS ASSOCIATION and OTHERS**

**Applicant**

and

**REGISTRAR OF PUBLIC TRANSPORT**

**and OTHERS**

**Respondent**

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JUDGMENT

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WILLIS J:

[1] This is an application in terms of which the applicants seek: (i) an order restraining certain of the respondents from conducting their business under the name and style of the Maxi Drivers Association; (ii) an order relating to reconnecting of business telephones and an order relating to the registration of Maxi Drivers Association as the Section 21 Company.

[2] The Maxi Drivers Association, the Section 21 Company is the 8<sup>th</sup> respondent herein.

[3] The applicants have also sought an order that the Registrar of Companies, the 2<sup>nd</sup> respondent, cancel this registration.

[4] After hearing the parties last week, I directed that the first respondent Registrar of Public Transport testify in this matter. He came today. His name is Mr Peter Jabu Dlamini. He confirmed that Maxi Drivers Association, the first applicant, has according to his records as a Registrar of Public Transport, ~~being~~ <sup>been</sup> in existence since at least 1997.

[5] The 8<sup>th</sup> respondent, on the other hand, has been registered as a Section 21 Company since about 2003. One therefore clearly has a case of "passing off" In other words, a metered taxi association, which is the first applicant, has the same name as the 8<sup>th</sup> respondent which is a Section 21 Company also conducting a taxi business.

[6] This is confusing and it is not fair to the public. It is not fair to the applicants. Accordingly, it seems to me that, in the absence of further evidence, the applicants are entitled to an interdict which will have the effect of restraining the 8<sup>th</sup> respondent and others from passing off.

[7] I accept that it is difficult to secure the attendance of the Registrar of Companies in the High Court as a witness but he may be able to shed some light on whether or not the 8<sup>th</sup> respondent should be struck from the register of companies. I have also accepted that the parties may, in the light of better, evidence be able to persuade another court to reconsider the matter.

[8] Accordingly I shall make an interim order. The order is as follows:

INTERIM ORDER

1. The application is postponed *sine die*.
2. Pending further order by this court, the 3<sup>rd</sup> to 8<sup>th</sup> respondents are interdicted and restrained from conducting their business activities under the name and style of Maxi Drivers Association.
3. Any of the respondents may set the matter down upon 72 hours notice to the applicants, for a reconsideration of this order.
4. The wasted costs occasioned by the postponement are reserved.

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Counsel for the applicant, Advocate M.J. Mashaba.

Counsel for the 3<sup>rd</sup> to 8<sup>th</sup> respondents, Advocate J. Bezuidenhout.

Attorneys for the applicant F.Z. Nzama.

Attorneys for the 3<sup>rd</sup> to 8<sup>th</sup> respondents Clifford Levin.

Date of hearing 19<sup>th</sup> August and 23<sup>rd</sup> August.

Date of judgment 23 August.