

REPUBLIC OF SOUTH AFRICA



IN THE SOUTH GAUTENG HIGH COURT
(JOHANNESBURG)

(1)	REPORTABLE: YES/NO
(2)	OF INTEREST TO OTHER JUDGES: YES/NO
(3)	REVISED. ✓
19 August 2013	
Date	Signature

CASE NO: 00731/13

In the matter between:

IN-OUT PANELBEATERS T/A PROFESSIONAL

PANELBEATERS

Applicant

and

MTHONTI SETHABILE SAMUKELISIWE

Respondent

JUDGMENT

WEINER J:

[1] In this matter, the applicant applies for leave to appeal against the judgment which I granted in favour of the respondent, in which I held that the security tendered by the respondent was adequate security, for it to release the

vehicle. I also held that attorney and client costs should be granted against the applicant for various reasons.

[2] Those reasons, were that, *inter alia*:-

2.1 it accepted the guarantee tendered by a reputable insurance company and then revoked the acceptance thereof, without justification, calling it a meaningless piece of paper. The guarantee was tendered by a registered and well-known insurance company and the applicant could not and did not contend that the insurance company would not make good on the guarantee;

2.2 it stated that the respondent could use public transport as an alternative pending the resolution of the dispute.

2.3. the version upon which the applicant relied was improbable, in that it was unlikely that the respondent would give the go ahead for the applicant to execute the repairs, at an agreed cost, prior to the insurance company approving same.

2.4. the applicant's conduct (in both opposing the application and acting as set out in the application in the court a quo by challenging Fluxmans' authority, failing to produce the quotation, reneging on the acceptance of the guarantee) in my view, demonstrates an obstructive and contemptuous attitude. In the circumstances, I believe that the punitive costs order was correct. I also do not believe there are prospects of success on appeal, either in regard to the

merits or in regard to the costs order.

Accordingly,

1. The application for leave to appeal is dismissed with costs.

A handwritten signature in cursive script, appearing to read 'Weiner J', written over a horizontal line.

Weiner J

Date of hearing: 19 August 2013

Date of judgment: 19 August 2013

Counsel for Applicant: Adv Scott

Attorneys for Applicant: Bouwer Cadona Inc.

Counsel for Respondent: Adv Rome

Attorneys for Respondent: Fluxmans Inc.