

REPUBLIC OF SOUTH AFRICA



**IN THE HIGH COURT OF SOUTH AFRICA
GAUTENG DIVISION, JOHANNESBURG**

CASE NO: 2021/30716

(1) REPORTABLE: NO
(2) OF INTEREST TO OTHER JUDGES: NO
(3) REVISED. YES

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SIGNATURE

DATE: 18 October 2021

In the matter between:

FIRSTASSIST (PTY) LTD

First Applicant

FIRSTHELP (PTY) LTD

Second Applicant

BLUESPEC HOLDINGS (PTY) LTD

Third Applicant

FIRSTGROUP (PTY) LTD

Fourth Applicant

and

**SOUTH AFRICAN BROADCASTING
CORPORATION (SOC) LIMITED**

Respondent

JUDGMENT *EX TEMPORE*

Weiner J

[1] As this matter had to be decided within thirty minutes of the Court being furnished with the papers, and in view of the fact that the relief sought needs to be granted before the airing of a television programme, which is set to air within the hour, I will give a very short judgment in this matter because of the urgency.

[2] The applicants applied to interdict the respondent (the SABC) from broadcasting, airing, and publishing a Special Assignment Investigative Report concerning the applicants. It was scheduled to be broadcast tonight at 20h30 and to be repeated on Sunday at the same time. The application was served on the respondent. According to the applicants' attorney, he was advised that the SABC was aware of the application, but would not be able to brief counsel to oppose it in time.

[3] The brief facts are that certain persons who, according to the applicants, were disgruntled with the applicants, approached an investigative journalist at the SABC and informed them of anti-competitive behaviour by the applicants, and various other facts which sought to place the applicants in a very bad light.

[4] The applicants were approached for comment and sent correspondence to the SABC denying all of the allegations and setting out, in detail, the history of the matter, and the fact that there was an ulterior motive that had caused a company styled 'Precision Towing CC' ('Precision') and their directors and employees, including one Mr Alpheus Ntshebeleng Ngoako, to provide untrue information to the SABC.

[5] Mr Ngoako, a director of Precision deposed to an affidavit on 12 August 2021 dealing with the problems that had existed between the applicant and Precision, relating to certain service level agreements and certain acts of violence and intimidation that took place between the employees of the applicants and those of Precision.

[6] The applicants had previously obtained an order of court interdicting Mr Olckers of Precision from perpetrating further acts of violence. After this had been done, there was certain other litigation that was instituted, involving the applicants and Precision.

[7] In the affidavit, Mr Ngoako stated that negotiations between the parties had not succeeded and in an attempt to bring pressure to bear on the applicants, he decided to approach an investigative journalist and presented to her what appeared to be a 'David-and-Goliath' story in which Precision had been and was at the mercy of the applicants. He set out the details of these disputes and what he states is as follows:

'In essence, I repeated and tried to breathe light into the incorrect and untruthful allegations that Mr Olckers has previously told to me and subsequently told to the Court.

I did not intend these allegations to be published by the journalist as I believed that enquiries by her of FirstAssist's representatives would immediately bring them to the negotiating table.'

[8] He then states the journalist had, however, 'acted on the incorrect and untruthful allegations that I conveyed to her.' He states that he regrets his actions in approaching and misleading the journalist.

[9] All of this information, conveyed in a sworn affidavit, was known to the respondent. Despite this, they informed the applicants that they intended to air the programme, stating that the applicants could reply on a later programme.

[10] What appears from the papers and from the affidavit of Mr Ngoako is that, on a *prima facie* basis, what the SABC intends to air is based on untruthful and incorrect allegations which have now been withdrawn by the main antagonist in this matter. For that reason, I do not believe that the programme should go ahead without further investigation, and that the applicants are entitled to the order which they seek. There is no irreparable prejudice to the SABC if the order is granted, and the balance of convenience favours the granting of the relief.

[11] An order is granted as contained at section 2-1 of the CaseLines application.

**S E WEINER**

JUDGE OF THE HIGH COURT
GAUTENG DIVISION, JOHANNESBURG

This revised judgment was handed down electronically by circulation to the parties' and/or parties' representatives by email and by being uploaded to CaseLines. The date and time for hand-down is deemed to be 10h00 on 18 October 2021.

Date of hearing: 14 September 2021

Date of judgment *ex tempore*: 14 September 2021

Date of revised judgment: 18 October 2021

Appearances:

Counsel for the applicant: N Maritz SC W Luderitz SC, P Lourens.

Attorney for the applicant: Nortons Inc

Counsel for the respondent: No appearance

Attorney for the respondent: No appearance