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

CASE NO: 14657/2020

REPORTABLE: NO

OF INTEREST TO OTHER JUDGES: NO

REVISED: NO

Date: 2 JULY 2021

In the matter between:

**COMMUNITY INVESTMENT HOLDINGS
(PTY) LIMITED**

First Applicant

MOKGOKONG, Dr THERESA

Second Applicant

MADUNGANDABA, MERIKA JOHANNES

Third Applicant

and

MAISA, ABRAHAM GOUD SAKHILE

Respondent

JUDGMENT

Delivered: *By transmission to the parties via email and uploading onto Case Lines*

the Judgment is deemed to be delivered. The date for hand-down is deemed to be

02 July 2021.

SENYATSI J:

- [1] On 26 April 2021, this Court ordered the respondent, Mr Abraham Goud Sakhile Maisa, to file his heads of argument and practice note along with an application to condone the late filing thereof, within 5 days of service of the order on the respondent by email. In the event that the respondent failed to comply with the order, the applicants were permitted to apply to the court for an order to strike out the respondents' defence on the papers, duly supplemented. The respondent was ordered to pay the costs of the application on an attorney and client scale.

- [2] A notice, dated the 3rd May 2021 was filed by the respondent asking for reasons for the judgement in terms of the rules of this Court. The reasons are as set out herein below.

- [3] The applicants in the main application, which is set to be determined, seek a final interdict against the respondent prohibiting the respondent from contacting the applicants, publishing or distributing any pamphlets, editorials or emails that directly or indirectly refers to the applicants, their conduct or business interests or associating the applicants with the passing of the late child M[...].

- [4] It is averred by the applicants that over the past 13 years, the respondent has continued to publish false and insulting information regarding the applicants. The applicants furthermore averred that the information complained of intimates that the applicants were actively involved in the death of the late child. The respondent, so continues the averment, alleges that he is the uncle of the late child.

- [5] As a result the applicants launched this interdict application. The pleadings were exchanged between the parties, with the respondent choosing to represent himself. He prepared all his papers in an answer to the application until the closure of pleadings.

- [6] The matter was ripe for hearing. That said, the applicants filed their heads of argument dated 26 November 2020. The respondent failed to serve and file his heads of arguments as required by the rules of this Court.
- [7] Consequently, the applicant issued an application to compel the respondent to file his heads of argument. The respondent opposed the application to compel him to serve heads of arguments that would enable the finalisation of the main application.
- [8] On 26 April 2021 the respondent appeared in person and used the Microsoft Teams meeting facility provided by this court.
- [9] In his opposition to the application to compel him to serve and file his heads of arguments, the respondent states under oath in his opposing affidavit as follows in paragraph 2:

"2. I submit that I stand by my answering affidavits dated 02/09/2020 and 23 February 2021. And that the falsely claimed to be delivered or serviced by the sheriff Mr Rulph Khan on the 26 June 2020 and 11 July 2020 documents the notice of motion dated 18 June 2021 with 82 pages and the notice of motion dated 26 June 2020 with 4 pages, have been given over to the police per case 29/07/2020 SAPS Springs reported on 20 July 2020 for charges of among others theft, fraud, perjury, misrepresentation, conspiracy and extortion, charges against suspects amongst others the unauthorised deponent Mr Stanley Rothbart, second Respondent Dr Anna Mokgokong, third Respondent Mr Merika Madungandaba, Mr Samuel Ndobe, Advocate Jaco Voster, Ms Hillary Davis, Sheriff of the Court Springs Mr Rulph Khan and others.

3. Also per answering affidavit dated 23 February 2021, I submit that the other above mentioned suspects have been reported beside to the police, but reported to the other duly authorized bodies including the unauthorized deponent Mr Stanley Rothbart reported to the Legal

Practice Council, Mr Rulph Khan reported to the Johannesburg Bar Association, and Dr Anna Mokgokong reported to the North West University governing body for personal use of university documents in this matter without authorization of the North West University governing body and breach of the Companies Act.”

[10] The quoted paragraphs are just an example of failure by the respondent to appreciate and understand what the notice to compel application is about. I would not like to waste the court's time to quote other irrelevant and unnecessary paragraphs dealing with opposition to the application.

[11] Rule 30A of the Uniform Rules of this Court provides as follows;

“(1) Where a party fails to comply with the Rules or with a request made or a notice given pursuant thereto, a party may notify the defaulting party that he or she intends, after the lapse of 10 days, to apply for an order that such rule, notice or request be complied with or defence be struck out.

(2) Failing compliance within 10 days, application may on notice be made to the court and the court may make such order thereon as to it seems meet.”

[12] The respondent has not demonstrated to this court on valid grounds why he should not be compelled to provide his heads of arguments. The issues he referred to in opposition to the application are irrelevant, incoherent and not genuine to the application before me to compel the filing of heads of arguments.

[13] It follows in my respectful view that the respondent is using this tactic to delay the main application from being finalised. This kind of conduct cannot be permitted and should be visited upon by an appropriate punitive costs sanction.

[14] During the hearing of the application the respondent was afforded sufficient time and addressed this court on matters that were irrelevant and a waste of time that had no bearing on the application. Despite being guided to restrict his submissions of the application before court, the respondent chose, without reason, to repeat what was stated in his opposing affidavit to the application before court. The submissions resulted in an unnecessary waste of the courts' time and delayed other matters which were on the court roll on the day.

[15] The application to compel the respondent to serve and file his heads of argument must therefore succeed.

ORDER

[16] The following order is issued:

(a) The application to compel the respondent to file and serve heads of arguments is upheld with costs.

SENYATSI ML

***Judge of the High Court of South Africa
Gauteng Local Division, Johannesburg***

REPRESENTATION

Date of hearing:	26 April 2021
Date of Judgment:	02 July 2021
Applicants' Counsel:	Adv J Vorster
Instructed by:	Rothbart Inc.
Respondent:	<i>In Person</i>