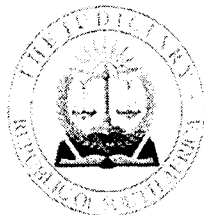


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IN THE HIGH COURT OF SOUTH AFRICA
(GAUTENG DIVISION, PRETORIA)



Case number: 82060/2015

Date: 25/4/2016

DELETE WHICHEVER IS NOT APPLICABLE

- (1) REPORTABLE: YES/NO
- (2) OF INTEREST TO OTHERS JUDGES: YES/NO
- (3) REVISED

25/4/2016

DATE

SIGNATURE

In the matter between:

M.A. PHENYANE AND ONE HUNDRED AND SEVENTY NINE OTHERS

1ST APPLICANT

EPHRAIM MATHOLE

2ND APPLICANT

and

RNS INVESTMENT (PTY) LTD

1ST RESPONDENT

NAZBRO PROPERTIES (PTY) LTD

2ND RESPONDENT

SHERIFF PRETORIA WEST

3RD RESPONDENT

THE SOUTH AFRICAN POLICE SERVICES

4TH RESPONDENT

**THE STATION COMMANDER OF THE PRETORIA CENTRAL
POLICE STATION, PHUKUBYE**

5TH RESPONDENT

**THE CLUSTER COMMANDER OF THE PRETORIA CENTRAL
POLICE STATION, MTHOMBENI**

6TH RESPONDENT

CITY OF TSHWANE METROPOLITAN POLICE

RED ANTS

7TH RESPONDENT

8TH RESPONDENT

JUDGMENT

PRETORIUS J.

- (1) This is an urgent application which was heard on Saturday, 23 April 2016 at 10h00. At the hearing the applicant requested the matter to be argued this morning, 25 April 2016 at 10h00, to enable him to file and serve a replying affidavit. Mr Mathole, the applicant, is appearing in person.
- (2) The applicant is requesting the court for interim relief on an urgent basis to prohibit the respondents to evict the applicant pending the outcome of an appeal and review.
- (3) An order was granted on 24 March 2016 by Mabuse J where the following order was granted:
 - "1. *The forms and service as prescribed by the uniform rules of court are dispensed with and this matter is heard as one of urgency in terms of rule 6(12).*
 2. *The 179th applicant is interdicted and restrained from making any utterances, transmitting any email or in any other way publishing any statements of or pertaining to the first and second respondents or its legal representatives which state or implies that:*
 - 2.1 *the first and second respondent are engaged in*

criminal activities;

2.2 *the first respondent is not the owner of the immovable property known as RNS House and situate at 125 Madiba Street, Pretoria, Gauteng;*

2.3 *the first and second respondent's legal representatives are unethical, unprofessional or have conducted themselves in an unlawful manner.*

3. *The 179th applicant is interdicted and restrained from making any utterances, transmitting any email or in any other way publishing any statement of or pertaining to the judges of the Gauteng Division of the High Court of South Africa which states or implies that they are corrupt, biased or dishonest or in breach of their oath of office.*
4. *The registrar is authorised to issue a warrant of ejectment pursuant to Tuchten J's order of 11 December 2015 and the third respondent is directed to execute that order forthwith and with such assistance from the South African Police Services as may be necessary in the circumstances.*
5. *The costs of the application and counter application are to be paid by the 179th applicant on the scale as between attorney and client.*
6. *The 179th applicant should not commence any litigation before he has paid all the taxed costs in respect of the*

cost orders against him.”

- (4) On 29 March 2016 the applicant requested full reasons for the order which has as yet not been given.
- (5) On 31 March 2016 the court order was served at RNS House, 125 Madiba Street, Pretoria, by affixing it to the principal door of the residence.
- (6) On 22 April 2016 all the occupants of the residence were evicted, hence the urgent application.
- (7) I must agree with counsel opposing this urgent application that the applicant, Mr Mathole, has breached the previous court order by firstly referring to Mabuse J, as follows, where he set out in the founding affidavit:

“To my knowledge and understanding a person of this kind does not qualify to be a judge because the role and duties of judge is to uphold the rule of law contained into the constitution act 108 of 1996 by judging a case based on the rules and the law. I seems some how agree with people making accusations that the judge Mabuse may be bribed to disregard the rules of the above court and further disregard the order granted by Justice Teffo on the 9 March 2016. I have already applied full reasons of his decision to make the draft order handed in court on the 23 March 2016 an order of court. To me this is a very serious misconduct behalf of the judge Mabuse to disregard the rules and the constitution act 108 of 1996 only to protect a person defeat the ends of justice.”

- (8) This is in total disregard of the third order made by Mabuse J on 24 March 2016.
- (9) It is clear that although the court order had already been served on 31 March 2016, the applicant failed to apply for a rescission of judgment and failed to apply for leave to appeal, thereby staying the execution of the order.
- (10) The applicant does not give any explanation as to why he did not approach the court before the order was executed, but waited until the eviction had already taken place.
- (11) The applicant who is according to him legally trained, submitted that according to him asking for reasons should stay the execution of the order. Once more the applicant was afforded the opportunity to read section 18 of the Superior Court Act¹ to inform himself of the contents of section 18.
- (12) The second submission by the counsel is that Mr Mathole, by his own admission, has not complied with the court order by not paying the taxed costs against him.
- (13) In this instance the eviction has already taken place. The applicant failed to file an application for leave to appeal or for a rescission of judgment. He did absolutely nothing from the date the order was served on the occupants of the respondents' property until after he had been evicted.
- (14) The following order is granted:
1. The application dated 22 April 2016 is dismissed.

¹ Act 10 of 2013

2. The applicant, Mr Ephraim Mathole, is ordered to pay the costs of this application including the costs of 23 April 2016 on the attorney and client scale. The costs of 23 April 2016 include the costs of two counsel.

A handwritten signature in black ink, appearing to read 'Pretorius', is written over a horizontal line.

Judge C Pretorius

Case number : 82060/2015

Matter heard on : 23 and 25 April 2016

For the Applicant : In Person

Instructed by : In Person

For the Respondent :

Instructed by : NM Aboo Attorneys

Date of Judgment : 25/04/2016