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

CASE NO. 21044/2017

In the matter between:-

THE STANDARD BANK OF SOUTH AFRICA LTD
REG NO. 1962/000738/06

APPLICANT

and

TREVOR SYCE
[...]

1ST RESPONDENT

ULINE CATHERIN WINGSON
[...]

2ND RESPONDENT

(in his capacity as duly appointed executor in the
CITY OF TSHWANE METROPOLITAN
MUNICIPALITY

3RD RESPONDENT

JUDGMENT

VORSTER, LI AJ:-

1. This is an application in terms of Rule 46A for an order declaring the property of the Respondents executable and the authorization of a writ of execution. The First and Second Respondents oppose the application.

2. Initially the application was launched before the amendment of Rule 46. As a result of the amendment of Rule 46 subsequent to the issuing and service of

the application. This necessitated an application for amendment of the application to provide for the additional requirements of Rule 46 relating to *inter alia* the fixing of a reserve price. The amendment of Rule 46 was something beyond the control of the Applicant and consequently the application for amendment /of the initial notice of motion to include reference to the seeking of the reserve price and to authorise the filing of a supplementary affidavit addressing the relevant facts in respect of the setting of a reserve price is allowed .

3. The Respondents oppose the application. The opposition to the prayers in the application is confined o disputing the indebtedness of the Respondents which led to the Applicant (Plaintiff) issuing a summons, obtaining default judgement and for payment of the amount owing by the Respondent. Consequently there is no valid defence relevant to the question of authorising a writ of execution and the setting of a reserve price, if any.

4. It appears that the Respondents are in arrears with their instalments in the amount of R37 152,51 as at 1 July 2016. At present they are in arrears in the amount of R96 295,35. The property has been valued by a valuator and valued at R900 000,00 and a forced sale value of R650 000,00. However, there is an outstanding municipal account of R617 585,42 in respect of the property which a prospective purchaser will of necessity take into account when a purchase price is fixed. The Applicant contends for a reserve price of R32 414,58. That reserve price is derived at deducting the outstanding rates and taxes from the forced sale value of the property. That appears to me to be reasonable and practical. In the result of the foregoing, I make the following order:-

- a) An order declaring specially executable the property known as Erf 1023, Malvern Township, Registration Division IR, Province of Gauteng measuring 495 square meters, held by Deed of Transfer No. T052899/2004 ;
- b) An order authorising the Registrar to issue a writ of execution in respect of the aforementioned property;

- c) That the aforesaid property be sold with a reserve price of R32 414,58;
- (d) An order in terms of Rule 46A(1) if the reserve price is not achieved in the first sale, the property may be sold to highest bidder in subsequent sale.
- (e) Costs of suit on the scale of attorney and client.

L I VORSTER, AJ

12 April 2021

Counsel: Applicant M Riley