

(Inlexso Innovative Legal Services) of

IN THE HIGH COURT OF SOUTH AFRICA

GAUTENG DIVISION, PRETORIA

CASE NO: 12473/2021

DATE: 2021.03.23

DELETE WHICHEVER IS NOT APPLICABLE

(1) REPORTABLE: NO

(2) OF INTEREST TO OTHER JUDGES : NO

(3) REVISED

DATE: 23/3/2021



SIGNATURE

10 In the matter between

REBONENG MEISIE NKOSI

Applicant

and

AFRICAN PRIDE IRENE

Respondent

J U D G M E N T

20 **DOSIO, AJ:** Having heard counsel in respect to the question of urgency the following aspects appear to be present.

The applicant was informed by email on the 12th of February 2021, that the venue she had booked was no longer available. According to the applicant's counsel, ongoing talks proceeded between the applicant's legal representative and

the respondent's legal representatives. This elicited a further letter from the respondent dated the 4th of March 2021 which restated the position that the venue was not available.

I find it strange that ongoing talks proceeded between the applicant and the respondent emanating from the initial refusal to host the applicant's function on the 2nd, 3rd, and 4th of April when the answer was clearly stated in an email dated the 12th of February 2021. The email is very clear.

In light thereof, the applicant had an opportunity to
10 enrol this matter already on the urgent roll for Tuesday's date of the 16 February, 23 February, 12 March, and 9 March. The applicant contents the matter indeed was enrolled on 11 March 2021, which is in fact a Thursday, but that it was removed from the roll due to the non-compliance with the directives. In response to the Court's questions why the matter was not then enrolled on the following Tuesday namely 16 March 2021 the answer given is that a date of 18 March 2021 was given but when the applicant wanted to proceed with this matter on 18 March, they were told by the
20 secretary of the judge on urgent duty that this could not proceed and that a date of 23 March was given.

From the notice of enrolment, this appears somewhat different, as the notice of enrolment loaded on CaseLines which is dated 12 March 2021, which is the day after the matter was removed, specifically enrolls the matter for

23 March 2021 and not 16 March 2021 which is what the applicant's counsel states and which was, in fact, the next available date.

In the answering affidavit that has been filed, there is a version given that the applicant's and respondent's representatives a Mrs Du Plessis had discussed tentative alternative dates to the 2nd, 3rd, and 4th of April 2021 namely the 24 of April 2021 and the 1st of May 2021. In response to the Court's questions why there is no replying affidavit to
10 dispute these dates, this was met by a reply by the applicant's counsel that this is in the founding affidavit. The founding affidavit does not deal with the dates 24 April 2021 or 1 May 2021 which were clearly alternative dates suggested in lieu of the function not being able to proceed on the 2nd, 3rd, and 4th of April 2021. The transcript, which remains undisputed clearly suggests that the decision as to the final dates would have been agreed upon after 15 February 2021. The applicant's counsel dispute this, however, there is no replying affidavit to place this on record. It is clear, all along,
20 another date in April namely 24 April 2021 was available to the applicant to host her event, which would accord with the month of April being the applicant's wedding anniversary month, her husband and son's birthday month. Even if this date of 24 April 2021 was not available, 1 May 2021 which was the tentative date agreed upon was a date which in the conversation which

is not disputed is a date which is closer to the applicants own birthday month, which is in May.

Accordingly, the issue of not finding another venue in time is all superfluous as the actual venue of the respondent and not another venue was, in fact, available meeting the same standards but on the dates 24 April or 1 May 2021.

Accordingly, I find that:

1. Urgency is self-created.
2. The issue of damages of the applicant may be
10 addressed with sufficient redress in due course on the ordinary rolls. As to cost, I do not believe this is a matter that warrants a punitive cost order. Accordingly, the applicant is to pay the cost of this application.

That is the order of this Court.



DOSIO, AJ

ACTING JUDGE OF THE HIGH COURT

20 **DATE: 23/03/2021**