

Sneller Verbatim/HVDM

IN THE LABOUR COURT OF SOUTH AFRICA

BRAAMFONTEIN

CASE NO: J2440/00

2001-02-02

In the matter between

Applicant

and

Respondent

In re:

Applicant

and

DE FONSECA JORGE M

HERS 1st Respondent

2ND Respondent

J U D G M E N T

Delivered on 3 February 2001

REVELAS J:

1. In this matter the respondent obtained an award in her favour from the Commission for Conciliation, Mediation and Arbitration, (the CCMA). Subsequent thereto the second respondent as well as Jeebo Trading and Rand Stretchers did not comply therewith.
- 2.
3. The respondent then brought an application to have the award made an order of court and thereafter brought an application to join the second

respondent, Mr JM De Fonseca as a party to the proceedings. Thereafter Mr De Fonseca (as the applicant) brought an application to have the order in terms of which he was joined as a party rescinded on the basis that it was obtained in his absence and without him being notified of the order. However, it was brought to my attention by the respondent, that is Mrs Roets, that the applicant had indeed been notified by someone not a party to these proceedings of the application and the date.

4.A court is also entitled to *meru moto* join a party in that if it is of the opinion that the party would have an interest in the outcome thereof. There is also nothing to indicate any prospect of success on the part of the applicant to show that he was not part of the proceedings before the CCMA. He was absent but such evidence given, apparently on his behalf, he regards as the testimony of persons who had no authority to act on his behalf.

5.In this regard it is of note that Mr De Fonseca, the applicant, did not ever bring an application for review of the award.

6.He also did not ask for the award to be rescinded on the basis that it was obtained in his absence and without him being aware of it.

7.Instead, he entered into correspondence with the CCMA and I gained the strong impression from the history of this file and the conduct of Mr De Fonseca is that he is attempting to escape the consequences of the arbitration hearing which was held.

8.In the circumstances the application is dismissed with costs.

E. Revelas

In person

: Mr Pelser from,

Cyril Ziman & Associates