REPUBLIC OF SOUTH AFRICA

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

CASE NO: 19133/2014
MAGISTRATE'S COURT CASE NO: 4871/2013

(1) REPORTABLE: YES / NO
(2) OF INTEREST TO OTHER JUDGES: YES/NO
(3) REVISED.

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DATE SIGNATURE

In the matter between:

MALHERBE RIGG & RANWELL INCORPORATED Applicant

And

ANDREA PRETORIUS Respondent

SUMMARY

Review – taxation of attorney and own client bill of costs – sections 80 and 81 of the Magistrates' Courts Act 32 of 1944 ("*the Act*"), and Rule 35 framed under the Act – review of decision of judicial officer – whether proceedings under the Domestic Violence Act 116 of 1998, costs and services rendered thereunder fall within purview of clerks of the magistrates' courts – taxation of

bill of costs by clerk of the court by agreement between the parties – appearance by candidate attorney on behalf of client during taxation – error in interpreting rules of court as to nature of taxation – costs on review by high court.

REVIEW JUDGMENT / TAXATION

MOSHIDI, J:

[1] This taxation matter was placed before me on review in terms of Rule 35(5) of the Magistrates' Courts Rules. The matter emanates from the Magistrate's Court at Boksburg. It involves the taxation of an attorney and own client bill of costs.

THE PARTIES

[2] The applicant is a firm of attorneys in Boksburg, whilst the respondent, the dissatisfied party, is the applicant's erstwhile client. I shall henceforth, and for the sake of convenience, refer to the parties as they were in the court *a quo*, i.e. the applicant and the respondent, respectively.

THE PROVISIONS OF RULE 35(5)

[3] Rule 35(5) provides that:

> "*The judicial officer shall lay the case together with the written contentions submitted and his own report not later than 15 days after receipt of such contentions, before a judge of the court of appeal who may then –*
>
> *(a) decide the matter upon the case and contentions so submitted, together with any further information which he may require from the judicial officer; or*
>
> *(b) decide if after hearing the parties or their counsel or attorneys in chambers; or*
>
> *(c) refer the case for decision to the court of appeal.*"

Sub-rule (6) enjoins this Court in deciding the matter, to make such order as deemed fit, including an order that the unsuccessful party pays the opposing party a sum fixed as to costs.

THE BACKGROUND CIRCUMSTANCES

[4] From the papers available, the background circumstances giving rise to the taxation, can be described briefly as the following. During May 2013, the respondent, in a pending matrimonial feud, instructed the applicant to obtain against her husband, a protection order under the Domestic Violence Act 116 of 1998 ("*the domestic violence proceedings*"). This out of the Boksburg Magistrate's Court. Thereafter, the applicant presented the respondent with an attorney and client account for services rendered (the invoice), which she challenged. The applicant was required to have the bill taxed. The impugned attorney and own client bill of costs ("*the bill of costs*"), includes items such as, receiving instructions, perusing documents, consultations, and attending court with respondent. The applicant's mandate was terminated subsequently.

[5] In the end, and on 29 August 2013, the bill of costs was taxed by the clerk of the court in the amount of R7 732,07. This amount appears to be much more than the original attorney and client invoice. Both parties enjoyed legal representation during the taxation. In fact, the parties could not reach agreement on the contents of the bill of costs initially enrolled for 1 August 2013. According to the affidavit of the clerk of the court, Mr D Mdungwana ("*Mdungwana*"), "*the matter was postponed on numerous occasions in order for the parties to attempt to settle the bill of costs. On all of those occasions Mrs Pretorius was represented by the same legal representative*". This is not disputed. Reference to Mrs Pretorius is to the respondent.

THE PERCEIVED DISPUTE

[6] There is some dispute as to what exactly transpired during the eventual taxation on 29 August 2013. However, this perceived dispute is not insurmountable in the light of the view which I take in this matter, as shown later below.

REVIEW BY RESPONDENT IN TERMS OF RULE 35(1)

[7] The respondent, feeling aggrieved by the allocatur to the bill of costs, lodged an application through her attorneys, to review the taxation in terms of Rule 35(1) of the Magistrates' Courts Rules. In the review, dated 18 September 2013, the respondent advanced several grounds. These included that, the clerk of the court is empowered to tax a bill of costs only in a civil

action in the Magistrate's Court; that the clerk of the court is empowered to tax a bill of costs only where costs and expenses were awarded to any party by the court as envisaged in Rule 33(15) and/or Rule 33(19) of the Rules of the Magistrates' Courts. The taxation of the bill of costs by the clerk of the court was pursuant to domestic violent proceedings which do not fall within the ambit of a civil action as defined in the Magistrates' Courts Act and the Rules; that the clerk of the court erred in taxing the bill of costs in accordance with a fee agreement, which agreement was disputed by the respondent; that the allocatur to the bill of costs contained services not rendered by the applicant over and above the original attorney and client account; and that although the respondent admitted that she was accompanied by a member of the applicant's firm (a candidate attorney), on 3 May 2013, the presence of such staff member was either not necessary or of no assistance to the respondent. The same contention was made in regard to a consultation between the applicant and her husband on 8 May 2013. Rule 33(15) seems inapplicable to this matter, whilst Rule 33(19) relates specifically to the taxation of a bill of costs in respect of an attorney's services to his own client.

THE REASONS OF THE ADDITIONAL MAGISTRATE'S RULING

[8] The additional magistrate, in due course ruled on the review, and found that it had no merit at all. This, after hearing argument from the legal representatives of both parties. This finding was condensed as follows:

> "*… having regard to an affidavit filed by the clerk of the court it became clear that the taxation was by agreement and that no objections were lodged with the clerk of the court. The objections initially raised were about the fee structure but the parties did agree to the amounts when the matter was taxed. Opportunity was granted to the correspondent attorney of the applicant* [sic] *to place an affidavit before me disputing the agreement. An affidavit was filed and the attorney concluded that she agreed to the bill on the assumption that it was subject to review. Subsequently she realised the assumption was erroneous. Unfortunately there is no basis in law for this court to review the proceedings because of an erroneous assumption by a legal representative of a pending review. The bill was agreed on by the representatives and as such there is no decision made by the clerk of the court to review. In the light of the above the application in terms of rule 35(3) was dismissed with costs.*"

The additional magistrate was then requested, and she stated a case for the decision of this Court, acting in terms of Rule 35(3).

THE CRISP ISSUES FOR DETERMINATION

[9] Based on the submissions made to the clerk of the court during taxation of the bill on 29 August 2013, and indeed, those before the additional magistrate subsequently, at least three issues arise for determination and consideration in this review. These issues are:

(1) Whether domestic violence proceedings could be regarded as "*civil proceedings in the magistrates' courts*";

(2) Whether the clerk of the court, in taxing the bill of costs, erred in accepting that the parties agreed to the taxation; and

(3) Whether certain items on the impugned bill of costs, such as consultations and court attendance by the applicant's firm were justified in the circumstances.

THE POWERS AND DISCRETION OF THE CLERK OF THE COURT

[10] The starting-point is sec 80(2) of the Magistrates' Courts Act ("*the Act*") which provides that, '*costs to be in accordance with scale and to be taxed*', "*(2) as between attorney and client, the clerk of the court may, in his discretion (subject to the review hereinafter mentioned) allow costs and charges for services reasonably performed by the attorney at the request of the client for which no remuneration is recoverable as between party and party and for which no provision is made in the rules*" (emphasis added). I shall revert later to the subject as to what is entailed in attorney and client costs.

SECTION 1 OF THE ACT

[11] Section 1 of the Act defines "*court*", as to mean "*a magistrate's court*". Section 13(1) provides that:

> "*There shall be appointed for every court by the magistrate of the district for which the court is situated so many clerks of the court and assistant clerks of the court as may be necessary.*"

The general duties of the clerk of the court in civil matters, over and above the taxation of bills of costs, are set out in Rules 3 and 4 framed under the Act.

The refusal by the clerk of the court to perform any act which he or she is by any law empowered to perform, "*shall be subject to review by the court*".[1] All civil proceedings, whether actions or applications, referred to in sec 80(1) of the Act, are initiated through the clerk of the clerk by for example, opening files and the allocation of case numbers. The civil proceedings contemplated, are plainly proceedings in which there is a *lis* between parties. From this brief exposition, as well as other case law mentioned later below, it is readily plain and indeed trite that, the clerk of the court at Boksburg in the present matter, was obliged to entertain the taxation of the bill of costs. The contentions of the respondent to the contrary are truly unfounded.

[12] The same applies to the contention that the taxation of the bill of costs, pursuant to domestic violence proceedings, was incompetent. The argument being that such proceedings do not fall under a civil action as defined in the Act and the Rules. In terms of Rule 55 under the Act, a variety of applications can be instituted out of the magistrate's court.[2] These include interlocutory matters, and interdicts. Rule 55(9), in particular, provides that:

> "*All interlocutory matters may be dealt with upon application, and any application which may be made ex parte may at the applicant's election be made on notice.*"

In addition, Rule 56(1) makes provision for interdict-related applications. For what may become relevant later in the judgment, it is also significant that sec 1 of the Act, defines '*practitioner*' as '*an advocate, an attorney, an articled*

[1] See sec 13(2) of the Act.
[2] See Rule 55(1) and 55(10).

clerk such as is referred to in section 21 or an agent as referred to in section 22'.[3]

THE DOMESTIC VIOLENCE ACT 116 OF 1998

[13] Furthermore, sec 1 of the Domestic Violence Act 116 of 1998 ("*the 1998 Act*"), defines "*clerk of the court*" as "*… a clerk of the court appointed in terms of section 13 of the Magistrates' Courts Act, 1944 (Act No 32 of 1944), and includes an assistant clerk of the court so appointed*". Similarly, the sec defines '*court*' as, "*any magistrate's court for a district contemplated in the Magistrates' Courts Act, 1944 …*".[4] Section 4 of the 1998 Act deals with applications for protection orders.[5] Section 5(2) of the 1998 Act provides that:

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[3] See Rule 56(1) to 56(15).

[4] For full definition, see sec 1 of Act 32 of 1944.

[5] "***4. Application for protection order.–*** *(1) Any complainant may in the prescribed manner apply to the court for a protection order.*

(2) If the complainant is not represented by a legal representative, the clerk of the court must inform the complainant, in the prescribed manner -

(a) of the relief available in terms of this Act; and

(b) of the right to also lodge a criminal complaint against the respondent, if a criminal offence has been committed by the respondent.

(3) Notwithstanding the provisions of any other law, the application may be brought on behalf of the complainant by any other person, including a counsellor, health service provider, member of the South African Police Service, social worker or teacher, who has a material interest in the well-being of the complainant: Provided that the application must be brought with the written consent of the complainant, except in circumstances where the complainant is –

(a) a minor;

(b) mentally retarded;

(c) unconscious; or

(d) a person whom the court is satisfied is unable to provide the required consent.

(4) Notwithstanding the provisions of any other law, any minor, or any person on behalf of a minor, may apply to the court for a protection order without the assistance of a parent, guardian or any other person.

(5) The application referred to in subsection (1) may be brought outside ordinary court hours or on a day which is not an ordinary court day, if the court is satisfied that the complainant may suffer undue hardship if the application is not dealt with immediately.

(6) Supporting affidavits by persons who have knowledge of the matter concerned may accompany the application.

(7) The application and affidavits must be lodged with the clerk of the court who shall forthwith submit the application and affidavits to the court."

"*If the court is satisfied that there is prima facie evidence that –*

(a) the respondent is committing, or has committed an act of domestic violence; and

(b) undue hardship may be suffered by the complainant as a result of such domestic violence if a protection order is not issued immediately, the court must, notwithstanding the fact that the respondent has not been given notice of the proceedings contemplated in sub-section (1), issue an interim protection order against the respondent, in the prescribed manner." (emphasis added)

On the papers before me in the instant matter, the respondent gave instructions to the applicant to obtain a protection order, apparently against her husband, in contemplated divorce proceedings, as envisaged in sec 4 of the 1998 Act. The latter Act succeeded the Prevention of Family Violence Act,[6] of 1993 ("*the 1993 Family Violence Act*"). In the case of *Rutenberg v Magistrate, Wynberg and Another,*[7] the applicant had applied *ex parte* for an interdict against the second respondent in terms of the 1993 Family Violence Act. It was granted. The review in the high court concerned the interpretation and implementation of certain provisions of the 1993 Family Violence Act. In the course of dismissing the review application, the Court said:

"*Now, the Act under which the magistrates' courts of South Africa are constituted is, of course, the Magistrates' Courts Act 32 of 1944, and not the Prevention of Family Violence Act. As I have said, in my judgment, a magistrate, in granting, setting aside or amending an interdict under the Act, acts in his judicial capacity as the officer presiding over his court. The jurisdiction, powers and procedure of that court, are to be found, then, in the first instance, not in the provisions of the Prevention of Family Violence Act and its regulations, but in those of the Magistrates' Courts Act and the Magistrates' Courts Rules. The latter provisions do not, in my view, cease to apply to a magistrate simply because, in a particular case, he is applying the Prevention of*

[6] Act 133 of 1993.
[7] 1997 (4) SA 735 (C).

> *Family Violence Act and its regulations: he is basically governed by the relevant provisions of the Magistrates' Courts Act and the Magistrates' Courts Rules which apply to and regulate the proceedings in his court. It is only where these are expressly or by clear implication extended or departed from in the Act and regulations that they will not apply. This is aptly illustrated, to my mind, if regard is had to the matter of geographical jurisdiction.*"[8]

Sections 14 and 15 of the 1998 Act deal with the issues of legal representation and costs awards, respectively, in domestic violence proceedings.[9] From all of the above, its is readily apparent that domestic violence proceedings are not only competent in the magistrates' courts, but also that, "*the court may only make an order as to costs against any party if it is satisfied that such party has acted frivolously, vexatiously or unreasonably*".[10] It follows therefore, in my view, that domestic violence proceedings in the magistrates' courts are competent, and may even attract an adverse costs order, which the clerk of the court is empowered to tax, if so requested by a successful party. The word "*proceedings*", could be very wide, as was described in *Assistant Taxing Master v Shanker and Gross.*[11] The provisions of sec 4(1) of the 1998 Act make it clear that, "*any complainant may, in the prescribed manner apply to the court for a protection order*". Rule 2 of the Magistrates' Courts Rules defines '*apply*' as "*means apply on motion and 'application' has a corresponding meaning*".

[14] Although the Act (Magistrates' Courts Act) does not specifically define the words "*action*" or "*proceedings*", in Erasmus, *Superior Court Practice*, B1-8 (Service 41, 2013), it is stated that, "*As to the interpretation of the meaning*

[8] At 750I-751A-C.
[9] See secs 14 and 15 of the Act.
[10] *Supra*, sec 15.
[11] 1953 (4) SA 281 (T) at 284B.

of the word 'action' in statutory provisions in general, it has been held that form must give way to substance, and that the relief sought in an application may be such that all the elements of an action are present. … On 'action' and application; see further Rembrandt Fabrikante en Handelaars (Edms) Bpk v Gulf Oil Corporation 1962 (3) SA 158 (T) at 159, cited with approval in Joh-Air (Pty) Ltd v Rudman 1980 (2) SA 420 (T) at 427". In *Rembrandt Fabrikante Bpk, supra*, at 159E-F, the Court said:

> "*The word 'application', where not used in this context, has a wide meaning and includes any form of request to a Judge or Court in legal proceedings. In the case of International Financial Society v City of Moscow Gas Co., (1877) 7 Ch.D. 241 at p. 246, Baggalay L.J., saw no ground whatever in the ordinary grammatical construction of the rule he was then considering, to give the word 'application' a limited meaning. He referred to the fact that in the other portions of the order and several Rules under the orders, the word 'application' and the word 'apply' were constantly used with reference to every class of application.*"

For these reasons too, the respondent's contention that domestic violence proceedings are not competent for taxation in the magistrates' courts, are misplaced.

WHETHER THE BILL OF COSTS WAS TAXED BY AGREEMENT BETWEEN THE PARTIES?

[15] However, the remaining essential issue in the present matter is whether the clerk of the court taxed the disputed bill of costs by agreement between the parties. The additional magistrate, save for her order as to costs, found this to have been the case. I agree with the finding in this regard, for a

number of reasons. As to what correctly constitute attorney and client costs, see *Hawkins v Gelb.*[12]

[16] The equivalent of Magistrates' Courts Rule 35 regarding review of taxation in the high court is Uniform Rule 48. Subsection (1) of this Rule provides:

> "*(1) Any party dissatisfied with the ruling of the taxing master as to any item or part of an item which was objected to or disallowed mero motu by the taxing master, may within 15 days after the allocatur by notice require the taxing master to state a case for the decision of a judge.*"[13]

In regard to the duties of the taxing master (and it can be assumed safely that this principle applies with equal force to the clerk of the court), the court in *Malcolm Lyons and Munro v Abro and Another*,[14] said:

> "*… Although it is true that a bill of costs as between an attorney and his own client is taxed on a basis different from that on which a party and party bill is taxed – or even different from that upon which an attorney and client bill is taxed when it is to be paid by the opposing litigant, the Taxing Master was empowered – and indeed in duty bound – to satisfy himself that the fees claimed related to work specifically authorised by the client and that the fees charged were reasonable. (See Cambridge Plan AG v Cambridge Diet (Pty) Ltd and Others 1990 (2) SA 574 (T).)*"[15] (emphasis added)

See also *Nel v Waterberg Landbouersvereniging.*[16] It is also trite that over and above being duty-bound to tax bills of costs presented, the clerk of the court also has a discretion as to what to allow or not, but the discretion should

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[12] 1959 (1) SA 703 (W) at 705.
[13] See Uniform Rule 48(1) to 48(7).
[14] 1991 (3) SA 464 (W).
[15] *Supra* at 469D-E
[16] 1946 (A) 597 at 607-8.

not be followed slavishly. See in this regard, *Law Society of the Cape of Good Hope v Windvogel,*[17] and *Whittlesea v Clerk of the Civil Court, Pietermaritzburg.*[18]

[17] With the above principles in mind, it is readily plain that the clerk of the court was duty-bound to tax the bill of costs, using his/her discretion. This was so particularly in the circumstances where the evidence shows overwhelmingly too, that the bill was presented for taxation by agreement of the respective legal representatives. For, in his affidavit, the clerk of the court, Mdungwana, states that:

> "*On the 29th August 2013 another legal representative attended Court on behalf of Mrs Pretorius (respondent) and indicated that the matter could not be settled and that the bill had to be taxed. The only issue that was brought to me for consideration and determination was whether the fee tariff in the bill of costs was in accordance with the fee mandate between the parties. I was presented with an affidavit of Jeffrey Mathee on behalf of Malherbe Rigg & Ranwell Incorporated confirming that service were rendered on behalf of Mrs Pretorius in terms of their agreed fee tariff, a copy of which was attached to his affidavit … Mrs Pretorius however did not indicate what fee arrangement was agreed and which tariff should be allowed.*"[19] (my insertions)

[18] The fact that the candidate attorney, Latoya Jansen, who attended the taxation on behalf of the respondent, now states in her affidavit, that:

> "*… Following our discussion certain items were deducted as is annotated on the Bill. Mr Montepara and I then calculated the total of the Bill. I agreed to this on the assumption that the Bill as agreed to*

[17] 1996 (1) SA 1171 (C) at 1176.
[18] 1992 (1) SA 603 (N) at 607E.
[19] See paras 5 and 6, annexure "B" (affidavit of Mdungwana).

> *was subject to review. I have subsequently been advised that my assumption was erroneous. The Bill was thereafter not taxed by Mr Mdungwana but was signed by a female official in the Clerk's office.*" (emphasis added),

is not advancing the respondent's cause at all. The probabilities strongly show that the taxation of the bill was by consent. In any event, the courts have consistently adopted the approach of reluctance to interfere in matters of this nature. See in this regard, for example, *Paton v Santam Insurance Co Ltd*;[20] and *Engel v Engel;*[21] and *Majola v Union South West Africa Insurance Co Ltd;*[22] *Visser v Gubb;*[23] and *Ocean Commodities Inc v Standard Bank of SA Ltd*.[24] Even if the clerk of the court was wrong, this Court cannot simply set aside the taxation. See in this regard *Benson v Union National South British Ins Co Ltd.*[25] See also *Buonanno v Taxing Master.*[26]

WAS THE ERROR OF THE CANDIDATE ATTORNEY EXCUSABLE?

[19] The respondent's legal representative at the taxation, Latoya Jansen, says she made an error based on an incorrect assumption. In the circumstances of this matter, this can hardly constitute a valid excuse. In the context of condonation for the late prosecution of an appeal, in *Kgobane and Another v Minister of Justice and Another*,[27] the Court said:

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[20] 1967 (1) SA 98 (E) at 100.
[21] 1975 (1) SA 879 (SWA)
[22] 1978 (2) SA 154 (SE).
[23] 1981 (3) SA 753 (C) at 754-5.
[24] 1094 (3) SA 15 (A) at 17I-18G.
[25] 1979 (3) SA 710 (T).
[26] 1965 (2) SA 653 (N) at 658C-E.
[27] 1969 (3) SA 365 (A) at 369B.

> "*The attorney for the applicants attributed his neglect to observe the Rules of this Court and to ensure that his instructions were carried out to his working under pressure and being away from office. When an attorney tells this Court, in effect, that he is too busy to study the Rules of this Court and to supervise the prosecution of an appeal, his explanation is quite unacceptable. In my view this is one of the worst cases of disregard of the Rules of this Court that have come before it.*"

Although courts are generally reluctant to penalise an innocent litigant on account of his or her attorney's negligence, as was stated in *Reyneke v Incorporated General Insurance Co Ltd*,[28] the then Appellate Division qualified this approach in *Sallojee and Another NNO v Minister of Community Development.*[29] In that case it was said:

> "*There is a limit beyond which a litigant cannot escape the result of his attorney's lack of diligence or the sufficiency of the explanation tendered. To hold otherwise might have a disastrous effect upon the observance of the rules of this court. Considerations ad miseracordiam should not be allowed to become an invitation to laxity … The attorney, after all, is the representative whom the litigant has chosen for himself.*"

In my view, these principles apply with equal force to the circumstances of the present matter. The taxation of bills of costs is a rather mundane and run-of-the-mill part of an attorney's practice, generally. That is why there was a candidate attorney involved in this matter on behalf of the respondent.

CONCLUSION

[20] For all the above reasons, I conclude that the finding and conclusion of the additional magistrate were, save as indicated above, correct. The finding

[28] 1974 (2) SA 84 (A) at 92F.
[29] 1965 (2) SA 135 (A) at 141C.

makes it unnecessary to consider the merits of the respondent's other challenges relating to individual items contained in the bill of costs, such as certain consultations and attendances. It is trite that candidate attorneys are permitted to appear on behalf of their principals, and charge for such services. See for example, *Venter v Carr*,[30] and sec 21 of the Act. The review clearly had no reasonable prospects of success, and pursuing it, as did the respondent's attorneys, could, in these circumstances, be interpreted as an abuse of court process, as found by the additional magistrate with reference to *Madlala v South Insurance Association Ltd.*[31] The taxed bill of costs is endorsed with the inscription "*as agreed*", and signed by the taxing master of the court. This is contrary to the respondent's unsubstantiated allegations to the contrary. No grounds have therefore been set out for interference by this Court.

COSTS

[21] I deal briefly with the issue of costs, which is a discretionary matter. The additional magistrate dismissed the review with costs. This costs order was clearly wrong and contrary to the provisions of sec 81 of the Act, which provide that:

> "*Taxation by the clerk of the court shall be subject to review free of charge by a judicial officer of the district and the decision of such judicial officer may at any time within one month thereafter be brought in review before a judge of the court of appeal in the manner prescribed by the rules.*"

[30] 1963 (1) SA 929 (T).
[31] 1982 (4) SA 280 (D).

The incorrect approach was conceded, and quite correctly so, in my view by the additional magistrate. However, as pointed out in *Madlala v Southern Insurance Association Ltd supra*, this Court on review, has a discretion to make a costs order. Section 48(7) of the Uniform Rules provides that:

> "*The judge or court deciding the matter may make such order as to costs of the case as he or she or it may deem fit, including an order that the unsuccessful party pay to the successful party the costs of review in a sum fixed by the judge or court.*"

When I took over this matter, which had been placed before a colleague, who became unavailable subsequently, I invited the parties to file heads of argument, if they so wished. There was no response to the invitation. Consequently, the matter had to be decided on the papers presented, including the submissions made to the additional magistrate. I mention this purely to illustrate that the parties plainly did not incur further costs beyond the proceedings before the additional magistrate. For this reason, and despite the unmeritorious nature of the review, as stated above, and the general rule that costs should follow the result, I am however, inclined to make an order that each party ought to bear their own costs. There are other reasons as well, such as, on the papers before me, it is not apparent whether the applicant indeed successfully applied for the protection order sought by the respondent in the court *a quo*, and upon termination of applicant's mandate.

ORDER

[21] In the result the following order is made:

1. The review is dismissed.

2. Each party shall pay their own costs.

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D S S MOSHIDI
JUDGE OF THE HIGH COURT OF SOUTH AFRICA
GAUTENG LOCAL DIVISION, JOHANNESBURG

COUNSEL FOR THE APPLICANT	NONE
APPLICANT'S ATTORNEYS	MALHERBE RIGG & RANWELL INC
COUNSEL FOR THE RESPONDENT	NONE
RESPONDENT'S ATTORNEYS	IAN RICHARD BAILIE ATTORNEYS
DATE OF HEARING	IN CHAMBERS
DATE OF JUDGMENT	29 JULY 2015