


IN THE HIGH COURT OF SOUTH AFRICA
GAUTENG DIVISION, PRETORIA



(1)	REPORTABLE: YES / NO
(2)	OF INTEREST TO OTHER JUDGES: YES /NO
(3)	REVISED.
	
<u>30.08.2022</u>	

CASE NO: 73282/2014

In the matter between:

THOMAS JACOBUS OOSTHUIZEN N. O
MAGDALENA JOHANNA SNYMAN

1ST APPLICANT/DEFENDANT
2ND APPLICANT/DEFENDANT

and

INGRID ELISABETH GLOSSOP
CLIVE WARD GRANVILLE

1ST RESPONDENT/PLAINTIFF
2ND RESPONDENT/PLAINTIFF

JUDGMENT

MANAMELA AJ (Ms)

1. The Applicant [Defendant] seeks a declaratory order against the Respondent [Plaintiff] in the following terms: -

1. *Declaring service of a "Notice of intention to Amend" as well as service of the amended particulars of claim by the Respondent [the Plaintiff] on 4 August 2021 to constitute an irregular step.*
2. *Setting aside the 'Notice of intention to amend' as well as the 'Amended Particulars of claim'.*
3. *Costs on the scale of attorney and client.*
4. *Further and/or alternative relief.*

2. This application is opposed, and the Respondent is self-represented.

3. The amendment to the particulars of claim were suctioned by an order made by van Heerden AJ on 1 March 2021, the relevant parts of which are in paragraph 3 and 4 of the Order, which states:

"3. The Respondents/Plaintiffs are to serve and file their Notice of Intention to Amend the undated particulars of claim issued on 3 October 2014 so as to reflect the joinder of the Second Respondent/ Second Defendant within 10 days hereof, but no later than 15 March 2021.

4 Should no objection to the proposed amendments be received by the Respondents/Plaintiffs within 10 days thereof, by no later than 10 March 2021, they are to effect their amendments within 10 days, by no later than 15 April 2021".

3. The Applicant raised an objection against the amendment of the particulars of claim files in terms of paragraph 3 of the van Heerden AJ Order, which objection was raised timeously. Notwithstanding the objection, the Respondent/Plaintiff proceeded to file the amended particulars of claim instead of invoking the provisions of Rule 28(4).
4. Being a self-represented litigant, the Respondent/Plaintiff continues to incur exorbitant legal cost order resulting from technical mistakes that he is making. In his own approach he states that has been trying to get direction from the court, his health has deteriorated, and cannot afford.
5. The Respondent/Plaintiff concedes after a clear explanation of the process by the court that, he now knows what he should have done and he is now pleading for leniency from the court.
6. I deliberately found that it would be another waste of time and money, if an order is made along the lines that the Respondent/Plaintiff should file application for leave to amend, as it will still be defective and/or incorporate defective amended particulars of claim, which will most likely be expiable and/or successfully opposed.

ORDER

7. The following order is made:

1. *The “Notice of intention to Amend” as well as service of the amended particulars of claim by the Respondent [the Plaintiff] on 4 August 2021 constitute an irregular step and are set-aside.*
2. *The timeframe for service and filing of the ‘Notice of intention to amend’ as set-out in the Order granted by van Heerden AJ dated 1 March 2021 is extended by 10 days from date hereof, respectively, within which the Respondent/Plaintiff is directed to files its new notice to of intention to amend, being by no later than 9 September 2022, which must be compliant with the Rules of the and be issued or checked by a legal practitioner’.*
3. *Should no objection to the proposed new amendments be received by the Respondents/Plaintiffs within 10 days thereof, by no later than 23 September 2022, the Respondents/Plaintiffs are to effect their amendments within 10 days, by no later than 10 October 2022”.*
4. *In the event that the Applicant persists with the objection, the Respondents/Plaintiffs, shall be deemed to have been granted*

leave to amend, as contemplated in Rule 28(4), which order is granted in terms of Rule 28(10).

5. *Costs are in the cause.*



P N MANAMELA
ACTING JUDGE OF THE HIGH COURT
GAUTENG DIVISION, PRETORIA

Date of hearing: 25 August 2022

Judgment delivered: 30 August 2022

APPEARANCES:

Counsels for the Applicants/Defendants:

Adv. G Jacobs

Attorneys for the Applicants/Defendants:

University of Pretoria Law
Clinic

For the Respondents/Plaintiffs:

In person