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**REPUBLIC OF SOUTH AFRICA  
IN THE HIGH COURT OF SOUTH AFRICA  
(MPUMALANGA DIVISION, MIDDELBURG)**

**CASE NO: 5611/2024**

(1) REPORTABLE: NO

(2) OF INTEREST TO OTHER JUDGES: YES

(3) REVISED: YES

04/12/2024

In the matter between:

**DUMISANI MAHLANGU**

**APPLICANT**

And

**THULANI MOKWATLO**

**RESPONDENT**

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**REASONS FOR JUDGMENT**

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This Judgement was handed down electronically by circulation to the party's representatives by email. The date and time for hand-down is deemed to be 04 December 2024 at 12:00.

**MALANGENI AJ**

*Introduction*

[1] On 5 November 2024 I made the following order:

- a. Matter is struck off the roll for lack of urgency.

b. No order as to costs.

[2] Immediately after making the order, the applicant's legal representative stood up and asked for the reasons for the order. I am now responding to the request in question.

*Factual background*

[3] By way of background, the applicant filed an urgent application seeking an order in the following terms:

- a. To the extent necessary, condoning the applicant's non-compliance with the rules of this Honourable Court relating to service and time periods, and hearing this on an urgent basis in terms of rule 6(12).
- b. An order dispensing with citation requirements in terms of rule 6(2) in respect of the respondent.
- c. In these orders, "the statement" is the statement attached as annexure "DM1" to the founding affidavit.
- d. It is declared that the allegations made about the applicant in the statement are defamatory and false.
- e. It is declared that the respondent's publication of the statement was and continues to be unlawful.
- f. The respondent is ordered to remove the statement within 24 hours from all media platforms including by deleting the statement from the respondent's Facebook account.
- g. The respondent is ordered, within 24 hours, to publish on Facebook from his Facebook account (#K[...] S[...] m[...]) the following statement: "On the 24<sup>th</sup> October 2024, I published a statement which alleges that

the Municipal Manager of Thembisile Hani Municipality stole my initiative and made theirs". I unconditionally withdraw this allegation and apologize for making it as it is entirely false. I have no valid basis whatsoever for asserting that the Municipal Manager stole my initiative and made it theirs".

- h. The respondent is interdicted from publishing any statement that says or implies that the applicant stole his initiative.
- i. The respondent is ordered to pay the applicant's costs on the attorney and client scale.
- j. The applicant is granted further or alternative relief.

[4] On 24 October 2024, the respondent published defamatory material against the applicant on Facebook stating, amongst other things, that the latter is dishonest, lacks integrity and essentially stole intellectual property of the respondent. The contents of this defamatory material were widely published on Facebook and other social media platforms.

[5] On 25 October 2024, the applicant instructed his attorneys of record to ask the respondent to remove and desist from spreading these false allegations. On 26 October 2024, the applicant's attorneys issued a letter to the respondent in line with the applicant's instructions. On the same date, the respondent replied to the applicant's instruction and refused to comply with the aforesaid request hence this application. The application in question remains unopposed.

[6] Rule 6(12) of the Uniform Court Rules deals specially with urgency. The paragraphs of this rule provide that:

- a. In urgent applications, the court or a judge may dispense with the forms and service provided for in these rules and may dispose of such matter at such time and place in such manner and in accordance with

such procedure (which shall as far as practicable be in terms of these rules as it deems fit.

- b. In every affidavit filed in support of any application under paragraph(a) of this subrule, the applicant must set forth explicitly the circumstances which is averred, and which render the matter urgent and the reason why the applicant claims that it could not be afforded substantial redress at a hearing in due course.

[7] In *Commissioners, SAR Services v Hawker Aviation Partnership and Others*<sup>1</sup> the Supreme Court of Appeal stated that:

“Urgency is a reason that may justify deviation from the times and forms the rules prescribe. It relates to form, not substances, and is not a prerequisite to a claim for substantive relief”

[8] Matter becomes urgent if the applicant cannot obtain redress for the harm that is taking place or happening. In this regard, *V De Wit*<sup>2</sup> stated the following:

“[H]arm does not found urgency. Rather, harm is a precondition to urgency. Where no harm has, is, or will be suffered, no application may be brought, since there would be no reason for a court to hear the matter. However, where harm is present an application to address harm will not necessarily be urgent. It will only be urgent if the applicant cannot obtain redress for that harm in due course. Thus, harm is an antecedent for urgency, but urgency is not a consequence of harm”.

[9] In an attempt to convince this court about existence of urgency, the Applicant’s legal representatives referred this court to *Hanekom v Zuma*<sup>3</sup>. The facts of this case are peculiar to *Hanekom v Zuma* in that the *Hanekom v Zuma* matter consists of both interdict and a defamatory claim for damages. Further the

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<sup>1</sup> 2006(4) SA 292 (SCA) at para 9.

<sup>2</sup> *V de Wit ‘The correct approach to determining urgency’* (2021) 21(2) *Without Prejudice* 12 at 13.

<sup>3</sup> [2019] ZAKZDHC 16 (6 September 2019).

*Hanekom v Zuma* involved high profile individuals, which is not the same in this matter. In fact, the court in *Hanekom v Zuma* stated the following regarding the nature of that matter:

“Because the matter is high profile, the abuse takes place in public eye. Comments on social media call Mr. Hanekom “Askari” and Impimpi” historically, these words were reserved for those who were suspected of being disloyal to the liberation struggle. They were often assassinated or at the very least ostracized. It is exceptionally dangerous to be referred to in these forms. Nor is it in the best interest of the people of South Africa to lose faith in the integrity of those who serve at the highest echelons of government. Furthermore, his fundamental right to dignity has been infringed.”<sup>4</sup>

[10] It is common cause that Mr. Hanekom and Mr. Zuma occupied high ranks in Government and the ANC. Mr. Hanekom was in the executive as Minister in many terms and Mr. Zuma was once a Deputy President and the President of the country. They both served in the NEC of the ANC. It is further clear that the words uttered by Mr. Zuma against Hanekom have an element of and or attract violence.

[11] In the case under consideration, the evidence depicts applicant as a municipal manager. However, no mention of the role of the respondent in the government. Although statement made by the respondent affect applicant’s right to dignity, they lack any form of violence. This means that the circumstances in the *Hanekom v Zuma* case differ materially with the circumstances of the case under consideration. It is trite that each individual case has to be treated on its own merits.

[12] The damage to applicant has occurred. He has a remedy or a substantial redress in due course in the form of, for example, filing a claim for defamation against the respondent. This may take a form of normal course or processes of

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<sup>4</sup> *Id* at pa 18

court rather than applicant jumping the queue and asking this court to pause with other cases and listen to its case as a matter of extreme urgency.

[13] When a matter is referred to court on grounds of extreme urgency, it means there is an emergency in the matter that requires urgent attention. It may mean further that there is damage that needs to be controlled. From the circumstances of this case, I could not find exceptional grounds that would cause this court to park all other cases aside and pays urgent attention to this case. The harm mentioned by applicant does not require urgency. This is a matter that must follow the normal court roll as it is without exception.

[14] I did not consider the issue of costs as the matter is unopposed.

**M MALANGENI**  
**ACTING JUDGE OF THE HIGH COURT**  
**MPUMALANGA DIVISION, MIDDLEBURG**

Appearances:

For Applicant:

Advocate Ntshangase

Instructed by:

Malanga Attorneys Inc.

For Respondents:

No appearance

Date of the hearing:

5 November 2024

Date of judgment:

4 December 2024