

THE REPUBLIC OF SOUTH AFRICA



IN THE HIGH COURT OF SOUTH AFRICA
GAUTENG HIGH COURT DIVISION, PRETORIA

Case no: 55157/2021

(1)	REPORTABLE: NO
(2)	OF INTEREST TO OTHER JUDGES: NO
(3)	REVISED. [REDACTED]
25 SEPTEMBER 2024.....	[REDACTED]
DATE	SIGNATURE

In the matter between:

SOUTH AFRICAN LEGAL PRACTICE COUNCIL

Applicant

And

M S SELOTA

Respondent

JUDGMENT

MAKHOPA, J

- [1] The applicant is asking the court to find the respondent in contempt of the suspension order. The court is asked to commit the respondent to prison for two years or such other period as the court may deem fit, alternatively suspended on such terms and conditions as the court may deem fit and appropriate.
- [2] The applicant is the South African Legal Practice Council and the respondent a legal practitioner (attorney) that is suspended from practicing as such pending final adjudication of the application for his name to be struck from the roll.
- [3] The respondent was suspended by the full bench on 7 February 2020 pending finalization of the application for the removal of his name from the roll of attorneys.
- [4] The respondent has since exhausted all avenues of appeal against the suspension order.
- [5] On 22 February 2021, the respondent brought an application for reconsideration to the Constitutional Court in terms of Rule 11 (1) (b) of the Constitutional Court Rules. This application was dismissed by the Constitutional Court on 31 March 2021.
- [6] On 9 March 2021 the applicant brought an urgent application to interdict the Council from implementing the suspension order. The application was dismissed.
- [7] The respondent has not provided his complete accounting record and files to the curator.

- [8] On the date of hearing, the respondent submitted that according to the practice directive he must be allowed to file heads of argument before the hearing.
- [9] In reply to this contention counsel for the applicant addressed the court and submitted that, the new practice directive does not require the filing of heads of argument before a date of hearing.
- [10] The court found that the new practice directive was applicable when the applicant applied for the date of hearing. Thus, the court ruled in favour of the applicant and dismissed the respondent's point *in limine*. Counsel for the respondent withdrew from the matter.
- [11] The respondent asked for the postponement which application was opposed by the applicant. The court refused the application because it was not in the interest of justice to postpone the matter.
- [12] The applicant proceeded to address the court and referred to his heads of argument. The applicant argued that the respondent continued to practice after the court order.
- [13] The applicant contended further that notwithstanding the dismissal of his application for leave to appeal in the Constitution Court, the respondent continued to practice on his own account.
- [14] The applicant submitted that there can be no doubt that the respondent continued practising in contravention of the suspension order.

- [15] In his answering affidavit¹ the respondent says, “*The documents that were provided to the sheriff were not random documents, but were documents selected by me so that my trust financial position could be established*”.
- [16] The respondent refuted the submission by the applicant and contended that he did comply with the court order.
- [17] In my view it is clear from the papers before me that the respondent failed to comply with the court order dated 7 February 2020.
- [18] In *Fakie NO CCII Systems (Pty) Ltd*² it was held that, the test for when disobedience of a civil order constitutes contempt is whether the non-compliance was committed deliberately and mala fide.
- [19] In my view there is more than obduracy by the respondent to refuse to comply with the court order up to date and this amounts to wilfulness not to comply with the court order.³
- [20] I therefore conclude that the applicant succeeded in showing that the respondent is in contempt of the court order dated 7 February 2020.
- [21] I make the following order.
- 21.1 The respondent is committed to twelve (12) months imprisonment which is wholly suspended for three (3) months on condition that, the respondent comply fully with the court order dated 7 February 2020.
- 21.2 The respondent is ordered to pay the costs of this application on the scale as between attorney and client.

¹ CaseLines 005 – 39 at par 18.12.

² 2006 (4) SA 326 (SCA) at par 9

³ Fakie NO par 22



MAKHOPA J
JUDGE OF THE HIGH COURT
GAUTENG DIVISION, PRETORIA

HEARD AND RESERVED JUDGMENT: 05 AUGUST 2024

JUDGMENT HANDED DOWN ON: 25 SEPTEMBER 2024

Appearances:

For the Applicant: Mr L. Groome (instructed by) Rooth & Wessels Attorneys
For the Respondent: In Person