

(Inlexso Innovative Legal Services) - gs



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IN THE HIGH COURT OF SOUTH AFRICA
GAUTENG DIVISION HELD AT JOHANNESBURG

CASE NO: 7541/2022

DATE: 2022/03/22

DELETE WHICHEVER IS NOT APPLICABLE
(1) REPORTABLE: NO
(2) OF INTEREST TO OTHER JUDGES: NO
(3) REVISED
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In the matter between

20 EMPACT GROUP (PTY) LTD

and

MUTSHIYANI THLANGESI MAGORO

J U D G M E N T

CRUTCHFIELD, J: This matter comes before the urgent court during the last week term on 22 March 2022. The applicant, on its own version, discovered the breach upon which it relies for its cause of action on 28 January 2022, approximately seven weeks to two months prior to this application being set down for hearing.

It took the applicant approximately eleven days thereafter, until 9 February 2022, to seek the advice of its attorneys of record and to instruct its attorneys to proceed in
10 respect of the breach discovered on 28 January 2022.

Correspondence was remitted to the respondents thereafter on 10 February 2022. The application incepted on 28 February 2022 or thereabouts, approximately one month after the applicant first discovered the breach upon which it relies.

During the course of the abovementioned time period, the applicant found itself with sufficient time to seek the opinion of counsel. Thereafter, the affidavits were filed with reasonable alacrity and no finger can be pointed at the respondent in respect
20 of its conduct in this matter.

As at the morning of Tuesday 22 March 2022 at approximately 09h00 heads of argument and a practice note from the applicant had not yet been filed and nor had a chronology of relevant events in the matter been uploaded on CaseLines.

Notwithstanding, a practice note and heads of argument from the respondents were uploaded on CaseLines. It is the applicant's responsibility in advancing its case on urgency to set out what harm will occur to it in the event that it is not granted a hearing in the week of 22 March 2022.

The applicant has already waited approximately seven to eight weeks prior to setting this application down for hearing by a court.

In the circumstances, little harm that is of an irreparable
10 nature and that has not already taken place between the date of the discovery of the breach and the date today, 22 March 2022, will occur to the applicant.

In my view there is no reason why this application cannot and should not be set down in the opposed motion court roll in the ordinary course or why the applicant should not approach the Deputy Judge President for a date in respect of the hearing of a special motion.

This is a matter which falls within the bounds of those matters described by His Lordship the Deputy Judge President
20 in his directive on the running of the urgent motion court dated 4 October 2021. This is one of those matters that is clogging up an extremely busy urgent roll in the last week of term.

The parties should take note that at this stage not all of the matters set down for hearing this week have been allocated to be heard.

It is not just for this matter to find its way to the urgent court on 22 March 2022 and the matter stands to be struck off the roll with costs.

In the circumstances, the following order is granted:

ORDER

1. The application is struck off the roll for want of urgency.
2. The applicant is to pay the wasted costs.

10 I hand down the judgment.

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CRUTCHFIELD, J

JUDGE OF THE HIGH COURT

DATE: 22 March 2022.

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