

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

CASE NO: 081339/2023

DATE: 2023-08-17

DELETE WHICHEVER IS NOT APPLICABLE

(1) REPORTABLE: NO.

(2) OF INTEREST TO OTHER JUDGES: YES.

(3) REVISED.

DATE 21 September 2023

SIGNATURE

10 In the matter between

BATLHALE HOLDINGS

Applicant

and

C AND H YARD LTD AND OTHERS

Respondent

J U D G M E N T

YACOOB, J: The applicant approaches this Court on an
urgent basis, to interdict the auction of a vehicle that belongs
20 to him.

In term of the notice of motion the matter was set down
for 10 o'clock today. The notice of motion also makes
provision for opposition and service of answering papers,
which was all supposed to happen yesterday.

Notwithstanding this provision, the application was not
served. In addition, at some time this morning the applicant
realised that the auction may take place before an order was

granted if the matter was heard at 10 o'clock as set out in the notice of motion, and telephoned the Court to request a hearing at 9 o'clock, which is out of Court hours.

No case is made for why the matter should be heard out of hours. Nevertheless, the Court convened to hear the applicant.

There is also no case made out for the matter to be heard *ex parte*. In addition, I am not convinced that any order interdicting an auction would be effective, taking into account
10 that there is no evidence about how and where the application will be served.

The applicant requests that it may serve the order by email. However, there is no evidence of what the email address is, of whether there is one in the applicant's possession or anything of that sort. In addition, there is no evidence that the applicant has attempted to contact the respondents before coming to court.

A final issue, a hurdle that could not be overcome, is that there appears to have been correspondence between the
20 applicant and the 2ND respondent about the vehicle and about the payment of storage fees which amount to more than what the vehicle currently stands to be sold for at auction. This was not disclosed in the affidavit. And therefore the applicant is not approaching the Court with open hands.

Had there been one or maybe two obstacles, they may

have been condoned. But in my view there are too many problems this application.

The Court does not exist for whims and vagaries of litigants and practitioners, nor does it exist to correct practitioners' errors which stem pure carelessness. There are reasons why there are procedures set out. These include the not insignificant need to protect the integrity of the Court, as well as the interests of all parties.

The applicant's noncompliance with the rules cannot be
10 condoned, nor has the applicant made out a case for the relief sought at this point.

For these reasons, the application is dismissed.

YACOOB, J

20 **JUDGE OF THE HIGH COURT**

DATE:21 September 2023