

**IN THE HIGH COURT OF
GAUTENG DIVISION,**



**SOUTH AFRICA
JOHANNESBURG**

CASE NO: 2023-031755

1. Reportable:
2. Of interest to other judges:
3. Revised

Wright J
November 2023

In the matter between:

BARLOWORLD EQUIPMENT SOUTHERN AFRICA

APPLICANT

A DIVISION OF SOUTH AFRICA (PTY) LTD

And

FISOKUHLE MULTI SERVICES CC

RESPONDENT

JUDGMENT

WRIGHT J

1. The applicant, Barloworld and the first respondent Close Corporation have or had an agreement under which the first respondent supplied catering to Barloworld. Ms Buthelezi, the second respondent is the moving force behind the CC.
2. The catering contract was apparently purportedly terminated by Barloworld.
3. In October 2022, Barloworld launched an urgent application against the CC and Ms Buthelezi. On 26 October 2022, this court granted an order that pending Part B of that application, the CC and Ms Buthelezi are restrained from *“posting any information pertaining to the applicant and/or its employees on Facebook, LinkedIn or any other social media”*
4. The order was served only on 11 November 2022.
5. On 10 November 2022, the day before service of the order, a journalist from City Press emailed the applicant with a detailed query regarding alleged racism by Barloworld.
6. On 21 November 2022, an article appeared in the City Press referring to the allegations of racism.
7. Neither Mr Hulley SC, nor Mr Nkosi, for Barloworld, could explain why it took their client 15 calendar days to serve the order. The question arises, why did it take the applicant so long to serve an order that had been sought urgently? It would appear that what motivated the service of the order on 11 November 2022 was the query received by Barloworld on 10 November. The sheriff served the order, if in fact the order was served properly, and I make no finding thereon, on 11 November 2023 at 6:20am and charged an after-hours fee for doing so. It is in my view, unlikely to be co-incidence that this urgent

service occurred the morning after the City Press query to Barloworld. But if I am wrong it does not matter. In the absence of an explanation, 15 days is a long time to serve an order obtained urgently. There is no explanation.

8. In any event, the article that actually was published by City Press on 21 November 2022 was met with no reaction by Barloworld, either to City Press or the present respondents.
9. Barloworld now seeks urgently that the respondents be held in contempt of the order of 26 October 2022.
10. The allegation is that Ms Buthelezi recently caused the publication of certain defamatory material on two social media platforms, namely Truth Panther and Not In My Name International.
11. The defamatory material includes allegations that one or more Barloworld employees referred to black people as “baboons” and “pussies.”
12. The applicant alleges that Ms Buthelezi has enlisted the assistance of these social media to spread defamation about the applicant in contempt of the court order.
13. It is to be noted that the respondents were not interdicted against complaining to any person about the applicant, but I make no finding thereon.
14. Part B of the October 2022 application pending is pending.
15. In my view, the application is not urgent.

ORDER

1. Struck off with costs.

GC Wright

Judge of the High Court

Gauteng Division, Johannesburg

HEARD : 31 October 2023

DELIVERED : November 2023

APPEARANCES :

APPLICANTS Adv G Hulley SC

gihulley@law.co.za

082 442 8291

Adv LT Nkosi

nkosi@rivonaiadvocates.co.za

076 513 1271

Instructed by NSD Inc

francois@nsdinc.co.za / gloria@nsdinc.co.za

073 938 5003

RESPONDENT Adv K Masupye

Instructed by Lindy Matlala Attorneys

law@ramaiselamakgale.co.za

012 055 5630 / 065 871 8706