



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

**Case No: 2023-004047**

|      |                                     |
|------|-------------------------------------|
| (1)  | REPORTABLE: YES/NO                  |
| (2)  | OF INTEREST TO OTHER JUDGES: YES/NO |
| (3)  | REVISED                             |
| DATE | SIGNATURE                           |

In the matter between:

**PETER WATT KAYE EDDIE**

Applicant

and

**THE CITY OF JOHANNESBURG METROPOLITAN MUNICIPALITY**

Respondent

**THE MUNICIPAL MANAGER:**

**THE CITY OF JOHANNESBURG METROPOLITAN  
THE MINISTER OF POLICE**

Second Respondent  
Third Respondent

Delivered: This judgment was prepared and authored by the Judge whose name is reflected and is handed down electronically by circulation to the Parties/their legal representatives by email and by uploading it to the electronic file of this matter on CaseLines. The date for hand-down is deemed to be \_\_\_\_\_ 2023.

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## REASONS FOR ORDER GRANTED ON 7 NOVEMBER 2023

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### CARRIM AJ

- [1] On 1 September 2021, the Applicant issued an application before this Honourable Court against the Municipality (the first Respondent) seeking, the reconnection of water and electricity.
- [2] On 15 May 2023, Justice Holland-Muter AJ, granted an order in favour of the Applicant against the Municipality. The court order is attached to the Applicant's papers as annexure C1. ("the court order").
- [3] The court order was obtained by agreement between the parties and contains the following terms:
- [3.1] *"1. The Respondent is hereby compelled to re-connect the electricity and water supply at the property more fully described as 15 Sunnyside Road, Johannesburg, within 48 (forty-eight) hours of this order;"*
- [3.2] *"2. A mandamus is issued against the Respondent to reconcile, together with the Applicant, within 60 (sixty) days of the date of this order, all the accounts billed against the Applicant in terms of water, electricity supply and all consumption as at 2014 to date taking into account all the payments made by the Applicant to the Respondent. Any amounts due and payable, if any, subsequent this statement and debatement of account shall be presented to the Applicant within 60 (sixty) days of such reconciliation";*

[3.3] “3. *The Respondent is hereby compelled to ensure that any water and electricity meters installed at the property described as 15 Sunnyside Johannesburg, are installed and are in a proper working condition to enable accurate water and electricity consumption readings*”; and

[3.4] “4. *Costs of the application are reserved pending the finalisation of order 2 (two) above.*”

[4] The Municipality failed to re-connect the electricity and water supply at the property, as directed, but effected the reconnection of the services on 26 May 2023.<sup>1</sup>

[5] On 26 May 2023, upon reconnecting the electricity and water supply at the property, the Municipality also attended at the property to re-install the water and electricity meters which had previously been removed by the first respondent.

[6] The Applicant claims that the water and electricity meters installed by the first respondent on 26 May 2023 are not in working condition.

[7] The Municipality has still not reconciled the Applicant's account.

[8] The Applicant has now issued a contempt of court application seeking the following relief:

[8.1] Declaring its application to be urgent.

[8.2] Holding the Municipality in contempt of court for failure to comply with

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<sup>1</sup> Founding Affidavit paragraph 20.2.

the court order of Judge Holland — Muter AJ.

- [8.3] The Municipal Manager be incarcerated for a period of a month.
- [8.4] The Minister of Police to arrest the Municipal Manager in the event of him not submitting himself to the police.
- [8.5] Suspending the arrest of the Municipal Manager and also direct him to comply with the order within 48 hours.
- [8.6] Punitive costs to be paid by the Municipality.
- [9] The Respondents raised several points *in limine*, the most important of these being that the Applicant failed to join the second and third Respondents who were not parties to the first application and that the application was not urgent.
- [10] The matter was heard on 7 November 2023 on the Urgent Court roll. After hearing argument from both sides, I stood the matter down to allow the parties an opportunity to settle the matter or to arrive at an agreed order. The parties were unable to do so and instead put up differently worded orders for me to consider.
- [11] After considering the matter, I handed down an order on 7 November 2023 in which I dismissed the matter for lack of urgency with costs.
- [12] I have now been asked to provide reasons for my decision which I hereby provide.

[13] In ***East Rock Trading 7 (Pty) Ltd v Eagle Valley Granite (Pty) Ltd***<sup>2</sup> Notshe AJ stated that “*the procedure set out in rule 6(12) is not there for the taking. An applicant must set forth explicitly the circumstances which he avers render the matter urgent. More importantly the Applicant must state the reasons why he claims that he cannot be afforded substantial redress at a hearing in due course.*”<sup>3</sup> It is important to note that the rules require absence of substantial redress.”<sup>4</sup>

[14] While contempt of court has at times been considered inherently urgent (see for example ***Victoria Park Ratepayers Association v Greyvenouw CC and Others***<sup>5</sup>) this is not always so in all matters.

[15] In ***Volvo Financial Services Southern Africa (Pty) Ltd v Adamas Tkolose Trading CC***<sup>6</sup> Wilson J held –

[15.1] “7. *It is sometimes said that contempt of court proceedings are inherently urgent (see, for example, Rustenburg Platinum Mines Limited v Lesojane (UM44/2022) [2022] ZANWHC 36 (21 June 2022) at paragraph 7 and Gauteng Boxing Promoters Association v Wysoke (22/6726) [2022] ZAGPJHC 18 (28 April 2022) paragraph 14). I do not think that can be true as a general proposition. I accept that the enforcement of a court order may well qualify as urgent, in situations where time is of the essence, but it seems to me that contempt proceedings entail the exercise of powers which often demand the kind of careful and lengthy consideration which is generally incompatible with urgent proceedings. For example, it cannot be sound judicial policy to commit someone to prison, even where the committal is*

<sup>2</sup> [2011] ZAGPJHC 196.

<sup>3</sup> IBID Paragraph 6.

<sup>4</sup> Supra Paragraph 7.

<sup>5</sup> [2004] 3 All SA 623 (SE).

<sup>6</sup> (2023/067290) [2023] ZAGPJHC 846 (1 August 2023).

*suspended, or to impose a fine, on an urgent basis, simply because that might be the only way to enforce a court order. There must, in addition, be some other feature of the case that renders it essential that the court order be instantly enforced, such that the penalties associated with contempt require immediate imposition.*"

[16] Indeed, this case is one such matter that was contemplated by Wilson J. In my view, the features of this case do not render it essential that the penalties sought by the applicant require immediate imposition. The applicant's case is not that it does not receive the services but that the meters are not working properly. The Municipality has connected services to the property but has not yet installed working meters or rectified the situation. The applicant alleges that the Municipality is charging him for the services on an estimated basis.<sup>7</sup> However, the tax invoices reflect that the Municipality is not charging the Applicant for any usage of the services on an estimated basis. The monthly charges for the months of August, September and October 2023 reflect that the current charges for the water, rates and refuse are constant charges totalling R2 300.99 (including VAT). No electricity charges are reflected on the statements. The applicant however has only been making payments of R1 029.08. and not paying the current charges for the water connection which includes a charge for the sewer. Furthermore, the property is vacant. Municipal workers who attempted to access the property on 26 October 2023 to investigate the issue of the meters found the premises locked. Attempts to call the applicant went unanswered.<sup>8</sup> As to the issue of the debatement of the account, after the 15 May 2023 court order was handed, correspondence between the legal representatives of the parties discloses that the Municipality was concerned

<sup>7</sup> Founding Affidavit paragraph 22.3.

<sup>8</sup> CaseLines section 07-32. Annexure COJ 5 which is a report by municipal workers who attended the applicant's property.

about the 2014 date and could only reconcile the account from the date of which all the meters were installed, which was from 2015.

[17] The applicant seeks a custodial sentence of the Municipal Mayor, a far reaching and grave penalty. But on his own version the application is “semi-urgent”. He has not shown why he would not obtain substantial redress in a hearing in due course for compliance with the court order.

[18] Finally, the papers filed in this matter by the applicant are deserving of some criticism. The application was filed in one bundle, with reams of paper and annexures all thrown in one continuous stream without separation. This is despite the clear directive from this court that papers be filed in discrete sections and be clearly identified. The papers in this matter fall squarely in the defects contemplated by Wepener J *In Re Several Matters on the Urgent Court Roll*<sup>9</sup> by parties who failed “*to index and describe each affidavit and annexure as a separate item, which makes the work of a judge more difficult*”. Furthermore, the quality of some of the annexures was so bad that it was impossible to make out what was being portrayed.<sup>10</sup>

[19] Accordingly, the following order was made:

1. The application is dismissed the matter for lack of urgency.
2. The applicant is to pay the costs of the application.

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<sup>9</sup> 2013 (1) SA 549 (GSJ) at paragraph 4.

<sup>10</sup> CaseLines section 01-38 – what appears to be marked C5.

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**Y CARRIM  
ACTING JUDGE OF THE HIGH COURT OF SOUTH AFRICA  
GAUTENG DIVISION  
JOHANNESBURG**

**APPEARANCES**

COUNSEL FOR THE APPLICANT: Adv MN Ndlovu  
INSTRUCTED BY: Pandor Davids Attorneys Incorporated

COUNSEL FOR THE 1<sup>ST</sup> &  
2<sup>ND</sup> RESPONDENTS: Adv EN Sithole  
INSTRUCTED BY: Mugeru Attorneys Inc

DATES OF HEARING: 7 November 2023  
DATE OF REASONS December 2023