

IN THE HIGH COURT OF SOUTH AFRICA

GAUTENG LOCAL DIVISION, JOHANNESBURG

CASE NO: 42535/2022

DATE: 23-11-2022

DELETE WHICHEVER IS NOT APPLICABLE

(1) REPORTABLE: NO.

(2) OF INTEREST TO OTHER JUDGES: NO.

(3) REVISED.

DATE 27 July 2023

SIGNATURE

10 In the matter between

ZUBAYR ABUBAKER HAJEE

Applicant

and

MOHAMED HANIF DARSOT

Respondent

J U D G M E N T

20 YACOOB, J:

This is an urgent application for an interim interdict interdicting the selling and transfer of a property for which the applicant has entered into an agreement of sale with the respondent.

The respondent cancelled the agreement on the basis that the applicant had not paid the amounts that, according to the respondent, the applicant had to pay.

The applicant contends that the cancellation was not done in good faith, that the applicant has tendered to make payment in

accordance with the agreement and that there is sufficient dispute of fact to warrant the matter being referred to trial. On that basis, it is submitted that the applicant has established a *prima facie* right and that the applicant will suffer more prejudice than the respondent will if there is no interdict. The applicant therefore submits he is entitled to an interdict pending the determination of the trial.

I am satisfied that even on the interpretation of the agreement contended for by the applicant, the applicant has not complied with his obligations in terms of the agreement, nor does the tender that was
10 made on the 12th of October in fact tender to comply with those obligations in full.

The applicant has therefore not established a *prima facie* right to the relief sought nor that that is where the balance of convenience lies and the application is therefore dismissed with costs.

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S. YACOOB
JUDGE OF THE HIGH COURT
GAUTENG LOCAL DIVISION, JOHANNESBURG

APPEARANCES:

APPEARANCE FOR THE APPLICANT: Y ALLI

APPEARANCE FOR THE RESPONDENT: P STRATHERN SC