



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

CASE NO:2939/2017

(1) REPORTABLE: NO
(2) OF INTEREST TO OTHER JUDGES: NO
(3) REVISED: YES

Date: 19 February 2024

In the matter between:

**THE MUNICIPAL MANAGER OF
OF THE CITY OF JOHANNESBURG
METROPOLITAN MUNICIPALITY**

**ROSINA MOHALE
MALEBO SELOWA
SIPHO SIBIYA**

**CITY OF JOHANNESBURG
METROPOILTAN MUNICIPALITY
CITY OF POWER JOHANNESBURG (SOC) LTD
JOHANNESBURG WATER (SOC) LTD**

FIRST APPLICANT

SECOND APPLICANT

THIRD APPLICANT

FOURTH APPLICANT

FIFTH APPLICANT

SIXTH APPLICANT

SEVENTH APPLICANT

And

**TWIN CITY REALTY (PTY) LTD
IDOLA (PTY) LTD**

FIRST RESPONDENT

SECOND RESPONDENT

JUDGEMENT

ALLY AJ

[1] This is an application launched by the First and Second Respondents, hereinafter referred to as the Respondents, for a costs order in their favour following an order¹ granted by agreement on 18 April 2019.

[2] The costs in the abovementioned order were reserved, hence this application which is opposed by all the Applicants.

[3] It should be noted that the abovementioned order was granted after the Applicants launched a reconsideration application.

[4] Both sets of parties submit that costs should be granted in their favour because they were successful. However, it is clear from the Order of Mahalelo J itself that both parties were successful and the costs reserved were in fact the costs of the reconsideration application.

[5] It has become trite law that a decision on costs to be awarded in legal proceedings vest in the discretion of the Court which discretion must be exercised judicially taking into account the circumstances of the case.

[6] It is true, as submitted by both Counsel that costs usually follow the result unless a Court is convinced otherwise in the given circumstances.

[7] The Respondents submit that this Court should consider that the original application was launched because of the conduct of the Applicants and the

¹ Caselines: Section E1-E2

Respondents were successful in the said application². However, it should be noted that costs of that application were awarded in favour of the present Respondents.

[8] In my view, a consideration of the costs of the reconsideration application cannot extend to a consideration of the initial application. This Court must accordingly consider what occurred in the reconsideration application.

[9] As stated above, both parties were successful during the reconsideration application and this factor is the overriding factor in coming to a decision as to who should be awarded costs in the said application.

[10] In the result, I am of the view that because of the success of both parties in the reconsideration application each party must pay their own costs of the said application and this opposed application.

[11] Accordingly, the following Order shall issue:

- a). Each party shall pay their own costs in respect of the costs reserved on 18 April 2019;
- b). Each party shall pay their own costs in this application.

G ALLY

ACTING JUDGE OF THE HIGH COURT

GAUTENG LOCAL DIVISION OF THE HIGH COURT, JOHANNESBURG

² Caselines: B4-B7

Electronically submitted therefore unsigned

Delivered: This judgement 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 19 February 2024.

Date of virtual hearing: 1 February 2022

Date of judgment: 19 February 2024

Appearances:

Attorneys for the Applicants	: MADHLOPA & THENGA INC commercial@madhlopathenda.co.za
Counsel for Applicants	: Adv. L. Nyangiwe
Attorneys for the Respondents	: JAQUES CLASSEN ATTORNEYS jaques@propdevlaw.co.za
Counsel for the Respondents	: Adv. R. de Leeuw