IN THE HIGH COURT OF SOUTH AFRICA
(WESTERN CAPE DIVISION, CAPE TOWN)

Case number: 20740/2022

In the matter between:

AHMED MANSOOR SHAIK EMAM Applicant

and

GRANVILLE COLIN CARLSON Respondent

JUDGMENT DELIVERED ON 11 APRIL 2023

VAN ZYL AJ:

Introduction

1. That there may be some truth (albeit not in all circumstances) in the old adage that "*he who represents himself has a fool for a client*" is unfortunately illustrated by the particular facts of this case. By this I mean no disrespect to the respondent, but simply that a lay person (understandably) may lose perspective in matters where his own interests are at stake, especially where he is not guided by objective and considered advice from an experienced legal practitioner.

2. This is an application pursuant to the provisions of section 2(1)(b) of the Vexatious Proceedings Act 3 of 1956 ("the Act"). The applicant seeks to have the respondent declared a vexatious litigant.

3. The applicant, who is the Parliamentary Leader of the National Freedom Party and a member of the Interim National Executive Committee of that party, avers that the respondent's conduct over recent years has

necessitated the application to stop the respondent from persistently launching and continuing with ill-founded, irresponsible, and vexatious litigation. The respondent is litigating not only against the applicant, but also against other parties such as the Minister of Justice and Correctional Services, and the Minister of Police.

The underlying principles

4. Before discussing the merits of the application, I refer briefly to the principles underlying section 2(1)(b) of the Act.

5. A High Court has the inherent jurisdiction to prevent vexatious litigation as being an abuse of its own process. This power, however, must be exercised with great caution, and only in a clear case, as the courts of law are open to all.[1]

6. In the absence of statutory authority, the Court did not originally possess the power to impose a general prohibition preventing the abuse of its process. It could only do so in respect of a particular matter serving before the Court.[2] In *Corderoy* (referred to in fn 2 below) the Appellate Division held that when there has been repeated and persistent litigation between the same parties in the same cause of action and in respect of the same subject matter, the court can make a general order prohibiting the institution of such litigation without the leave of the court, but that power extended only to prevent the abuse of its own process without being concerned with the process of other courts, and to protect the applicant before it without being concerned about other parties who were not before it. It was therefore held that, in the absence of statutory powers, the Courts do not possess the inherent power to impose a general prohibition curtailing plaintiff's ordinary right of litigation in respect of all courts and all parties.

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1 *Western Assurance Co v Caldwell's Trustee* 1918 AD 262 at 271; *Hudson v Hudson* 1927 AD 259 at 268.

2 *Corderoy v Union Government (Minister of Finance)* 1918 AD 512.

7. The promulgation of the Act remedied this situation, and empowered the Court to impose general restrictions on the institution of vexatious legal proceedings.

8. Section 2 of the Act provides, in relevant part, as follows:

"Powers of court to impose restrictions on the institution of vexatious legal proceedings

(1) (a) …

(b) If, on an application made by any person against whom legal proceedings have been instituted by any other person or who has reason to believe that the institution of legal proceedings against him is contemplated by any other person, the court is satisfied that the said person has persistently and without any reasonable ground instituted legal proceedings in any court or in any inferior court, whether against the same person or against different persons, the court may, after hearing that person or giving him an opportunity of being heard, order that no legal proceedings shall be instituted by him against any person in any court or any inferior court without the leave of the court, or any judge thereof, or that inferior court, as the case may be, and such leave shall not be granted unless the court or judge or the inferior court, as the case may be, is satisfied that the proceedings are not an abuse of the process of the court and that there is prima facie ground for the proceedings.

(c) An order under paragraph … (b) may be issued for an indefinite period or for such period as the court may determine, and the court may at any time, on good cause shown, rescind or vary any order so issued.

(2) …

(3) The registrar of the court in which an order under subsection (1) is made, shall cause a copy thereof to be published as soon as possible in the Gazette.

(4) Any person against whom an order has been made under subsection (1) who institutes any legal proceedings against any person in any court or any inferior court without the leave of that court or a judge thereof or that inferior court, shall be guilty of contempt of court and be liable upon conviction to a fine not exceeding one hundred pounds or to imprisonment for a period not exceeding six months."

9. In *Fisheries Development Corporation of SA Ltd v Jorgensen and another*[3] it was held that, in its legal sense, *"vexatious"* means *"frivolous, improper, instituted without proper ground, to serve solely as an annoyance to the defendant*". The Court proceeded that "*[v]exatious proceedings would also no doubt include proceedings which, although properly instituted, are continued with the sole purpose of causing annoyance to the defendant; 'abuse' connotes a mis-use, an improper use, a use mala fide, a use for an ulterior motive*."

10. In *Corderoy supra* the Court stated (prior to the promulgation of the Act, but the principle remains apposite) that the power in question is one which should be very cautiously exercised because it affects the elemental right of free access to courts, with which the courts should be slow to interfere except in exceptional and necessary instances and only in a clear case.[4]

11. In *Golden International Navigation SA v Zeba Maritime Co Ltd*[5] this Court said the following:

"*[26] I am mindful of the fact that the court's power to strike out a claim on the basis that it is vexatious or an abuse of its process is an exceptional one which must be exercised with very great caution, and only in a clear case. However, I respectfully disagree with dicta that go further by requiring that this conclusion 'must appear as a certainty and not merely on a preponderance of probability'. (My emphasis.) This requirement appears to*

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3 1979 (3) SA 1331 (W) at 1339F.
4 At 517.
5 2008 (3) SA 10 (C) at para [26].

originate from a dictum in the minority judgment of Holmes JA in the African Farms and Townships case. The two cases cited by the learned judge of appeal in support of this proposition do not, however, provide such support. Furthermore, the proposition flies in the face of our rules of evidence, by which a preponderance of probability in favour of a litigant is sufficient to decide any civil case in favour of such litigant. (Even the most serious criminal charge is decided beyond reasonable doubt, and not with 'certainty'.) I accordingly respectfully decline to follow the authorities that appear to lay down such a requirement."

12. The Act does not define a vexatious action, but authorises the Court to prohibit legal proceedings by any person who has persistently and without any reasonable ground instituted legal proceedings. In order to obtain relief in terms of section 2(1)(b) of the Act, the applicant thus has to meet two threshold requirements: firstly, that the respondent has persistently instituted legal proceedings and, secondly, that such proceedings have been without reasonable ground.[6]

13. In *Absa Bank Ltd v Dlamini*[7] the Court discusses the principles that find application in matters of this nature and comes to the following conclusion:

"*[32] Consequently, in summary, the following appears to be the position: the only manner by which the institution of future vexatious proceedings can be prevented is to rely on the provisions of the Act; the only manner to stay, strike out or otherwise deal with vexatious proceedings which have already been instituted, or to deal with any process or action or inaction leading up to, or during or subsequent to, any legal proceeding or proceedings already instituted, and which constitutes an abuse of process, or generally brings the administration of justice into disrepute, shall be done in terms of the applicable common-law principles and the court's inherent power to apply same*."

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6 *Cohen v Cohen* 2003 (1) SA 103 (C) at para [17].

7 2008 (2) SA 262 (T) at para [32].

14. For the purposes of the Act the element of persistency is a necessary one.[8] In *State Attorney v Sitebe*[9] the Court held that, in considering a general prohibition on litigation in terms of the Act, the Court will consider the general character and result of the action and not merely whether there may not have been possible causes of action in some of the cases, as well as exceptional circumstances where the number of occasions is comparatively small.

15. In *Heugh v Gubb*[10] the Court was hesitant to apply the Act to a litigant who, through financial stringency, drew his pleadings himself and had had two summonses set aside as being defective and irregular. The Court did, however, warn that if a further defective summons were to be issued, the Court might well come to a different conclusion, particularly if any part of the costs of legal proceedings awarded to the applicants were to be unpaid.

16. In *Caluza v Minister of Justice*[11] the Court set aside an action with costs by reason of non-compliance with the provisions of Rule 47 requiring the furnishing of security for costs within a reasonable time, and referred the papers in the case to the Deputy State Attorney with a view to instituting proceedings under the Act.

17. Attempts to have the Act declared unconstitutional have been unsuccessful. In *Beinash v Ernst and Young*[12] the Constitutional Court held that the Act achieves its purpose of putting a stop to the persistent and ungrounded institution of legal proceedings by allowing a court to screen (as opposed to absolute barring) a person who has "*persistently and without any reasonable ground*" instituted legal proceedings in any court or inferior court. It also added that the screening mechanism is necessary to protect two important interests, namely the interest of the victims of the vexatious litigant who have repeatedly been subject to costs, harassment and embarrassment of unmeritorious litigation, and the public interest that the functioning of the

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8 *Fitchet v Fitchet* 1987 (1) SA 450 (E) at 454B.
9 1961 (2) SA 159 (N) at 160H.
10 1980 (1) SA 699 (C) at 702H.
11 1969 (1) SA 251 (N) at 255C-H.
12 1999 (2) SA 116 (CC) at paras [17]-[18].

courts and the administration of justice should proceed unimpeded by the clog of groundless proceedings.

18. The Constitutional Court also held that, although the procedural barrier serves to restrict access to courts in the face of the provisions of section 34 of the Constitution of the Republic of South Africa, 1996 ("the Constitution"), the limitation imposed in justifiable in terms of section 36 of the Constitution.

19. While the Court usually asserts its power under the Act in connection with civil proceedings, the power exists equally where the process abused is that provided for in the conduct of private prosecutions.[13] This is important in the present matter, as it is common cause that the respondent has laid criminal charges against the applicant, and is attempting to convince the national prosecuting authorities ("NPA") to issue *nolle prosequi* certificates, to enable him privately to prosecute the applicant.

20. I asses the merits of the application against this backdrop.

The respondent's conduct

21. The respondent commenced what cannot be described otherwise than as a dedicated campaign of litigation against the applicant as a result of his belief that the applicant caused him (the respondent) to be excluded from the political party of which the applicant is a member. It appears from the facts set out on record - very briefly stated - that, although the applicant had initially been willing to allow the respondent to become involved in the party, the applicant subsequently discovered that the respondent had been convicted of murder and robbery in 2000, and had served a long period of imprisonment as a result. This conviction excluded the respondent from becoming a member of the party by virtue of certain provisions in the party's constitution which excluded persons having been convicted of so-called Schedule 5 and 6 offences from membership.

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13 *Van Deventer v Reichenberg* [1996] 1 All SA (C) at 132f-g.

22. The respondent has not accepted this to be the position and has taken the refusal of his application for membership as a personal rejection engineered by the applicant.

23. As indicated below, the respondent has been ruthless in pursuit of what he perceives to be justice. He has taken formal steps or instituted litigation in a variety of forums. The fact that none of his applications, charges and complaints have thus far been successful, and that the proceedings instituted all suffer from serious defects, does not deter the respondent from pursuing the serial litigation.

24. I refer briefly to some of the instances complained of by the applicant. I have considered the pleadings and affidavits in these proceedings where they were available to me. It will serve no purpose to regurgitate the contents. Not one instance displays a cause of action.

25. The respondent has made formal complaints against the Department of the South African Police Service, the Department of Justice and Correctional Services, and the NPA's Western Cape branch.

26. The respondent instituted action against the applicant in this Division under case number 7459/2022, in which he claims an amount of R300 million from the applicant. The basis for this claim seems to be allegations of defamation of the respondent by the applicant, and the latter causing the respondent to be unlawfully arrested and detained.

27. The respondent has been publicly outspoken about this claim. He has, for example, written to the applicant's secretary at Parliament in relation to this claim, that "*you are well aware how you disadvantages me with a lie in an affidavit concurring your bosses lie. As you know or don't know I am suing him for R300 million and have an order for him not to enlist or mislead any department that he so gladly use to cover up his criminal activities. If you*

decide to testify against him you will keep your job as the secretary and I will give you R1 million for your efforts."

28. The respondent has attempted to convince the applicant to settle the claim by paying him an amount of R120 million. The respondent's email dated 17 November 2022 in this regard to the applicant's attorney reads, *inter alia*, as follows:

"*I am in full control now he will be privately prosecuted by me, but to be honest Mr Hugo I never wanted him in such a position from the start, how deceitfulness and lying tongue is the cause of his problems.*
Your client's arrogance will be his downfall so I ask you Mr Hugo to advise him on common sense please and let him settle the claim of R300 million. If he can deposit R10 million as a down payment we can talk.
I am the prosecutor and the plaintiff. We can settle for R120 million.
I'm more than willing to try and fix our relationship if your client is willing to meet me halfway."

29. On two occasions, namely on 7 October 2022 and 11 November 2022, the respondent launched urgent applications (under case number 16846/2022 and 18332/2022 respectively) seeking interdictory relief against the applicant, without meeting any of the requirements for the grant of interdictory relief. These applications were necessary, so the respondent explains, because he believes that the applicant is lying to the Court in his plea to the damages claim. Both urgent applications were struck off the roll.

30. On 22 February 2022 the respondent launched an application against the applicant in terms of section 3(4) of the Protection from Harassment Act 17 of 2011 in the Cape Town Magistrate's Court, under case number H199/2022. The application was postponed until November 2022 and again to February 2023, when a criminal trial in which the respondent is the accused would proceed. (The criminal trial was instituted because the respondent acted contrary to a mediation agreement that had been reached between the

parties on 25 February 2021. In terms of the mediation agreement, the respondent agreed that he would refrain from committing certain acts set out in detail in the agreement.)

31. The respondent lodged a complaint in the Bellville Magistrate's Court under case number 240/10/2022, in which he alleged that the applicant had committed perjury in his answering affidavit in case number H199/2002 (referred to above). The complaint was found to be without merit and the State decided against prosecuting the applicant on the basis thereof.

32. The respondent instituted an action (under cover of a "notice of motion") under case number 21517/2022 against the Minister of Justice and Correctional Services, claiming damages in the sum of R360 million consequent to his allegedly unlawful detention and the witnessing of the murder of a fellow detainee whilst in custody.

33. On 9 December 2022 the respondent launched an urgent application against the applicant and his attorney of record under case number 20996/2022, to have them declared in contempt of Court. The application was removed from the court roll by the presiding judge on the day of the hearing.

34. On 18 January 2023, the respondent launched yet another urgent application to have the applicant and his attorney, in his personal capacity, declared in contempt of court. The application is, apart from not being urgent, without merit.

35. The respondent claims damages in the sum of R340 million from the Minister of Police in an action instituted under case number 421/2023 in January 2023. It is unclear from the papers what the basis of the action is.

36. The respondent has laid criminal charges against the applicant at, respectively, the Cape Town, Kensington, Goodwood, and Stellenbosch police stations, of which nothing has come. He is at present attempting to

convince the NPA to issue a *nolle prosequi* in relation to these charges which would allow him privately to prosecute not only the applicant, but also several other persons.

37. On 23 February 2023 the respondent instituted another action in this Court against the Minister of Justice and Correctional Services under case number 3174/2023. In the particulars of claim the respondent alleges (as he does under case number 21517/2022, as the two proceedings are based upon the same facts), *inter alia*, that he was illegally detained at Pollsmoor for fourteen months. During his time in custody, he "*had to witness on his birthday .. how an inmate as butchered to death*" by correctional service officials, and that he "*will always be reminded of a bloody birthday*."

38. The respondent acts in person in all of these matters, notwithstanding having been urged by two judges of this Division not to continue to do so, but rather to obtain legal representation.

39. The result is that the allegations made by the respondent, in the proceedings that I have had insight to, as well as in his opposition to this application, are wide-ranging and disjointed, and often blatantly vexatious. The respondent does not deny the applicant's allegations pertaining to the present application, but deals with the applicant's alleged conduct in relation to the various proceedings instituted by the respondent. He effectively reiterates the history of the matter up to the present. It is a stream of consciousness that is often difficult to follow. The answering affidavit, ironically, substantiates the applicant's application.

40. The same applies to the respondent's heads of argument. The heads set out a winding narrative leading to the institution of the various proceedings, and the applicant's alleged unlawful conduct giving rise thereto. It then purports to set out the principles relating to exceptions, general damages, defamation, and the development of the common law. Several annexures, including copies of pleadings, affidavits, and email correspondence between the

parties, are attached thereto to serve as further “evidence” of the respondent’s allegations against the applicant.

41. The applicant does not object to the attachment of the annexures to the respondent’s heads, because those annexures support the applicant’s case. It is clear from the documents filed of record why the Court has previously urged the respondent to obtain legal advice.

The supplementary affidavits

42. On the day of the hearing the applicant sought leave to introduce a supplementary affidavit to place evidence before the Court as to what had transpired subsequent to the delivery of the applicant’s replying affidavit in this matter. Having had regard to the content of the affidavit, I am satisfied that it should be permitted into the record to allow for the adjudication of this dispute upon all of the relevant facts.[14]

43. The supplementary affidavit consists mainly of email messages addressed by the respondent to the applicant’s attorney, as well as a copy of the respondent’s application dated 20 February 2023 for default judgment against the Minister of Justice and Correctional Services under case number 21517/2022 in this Court (that is, default judgment in that action was sought three days before the institution of the action under 3174/2023, against the same defendant and upon the same grounds).

44. The applicant’s attorney explained in the supplementary affidavit that, since the institution of this application, the respondent has communicated with the applicant’s attorney as follows:

    44.1 On 6 February 2023, the respondent forwarded an email message in which he accuses the applicant of contravening a court order which according to the respondent had been issued in the Cape

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[14] *Bader and another v Weston and another* 1967 (1) SA 134 (C) at 138D-G.

Town Magistrate's Court under case number H199/2022. The respondent accuses the applicant of harassing him. No such order has, however, been issued under that case number and, on 21 February 2023, the matter was struck from the roll due to the respondent's failure to appear at Court. The respondent threatened to have the applicant arrested for breaching the non-existent order. The email contains statements such as the following, giving a glimpse of the manner in which the pleadings and affidavits in the various proceedings instituted by the respondent have been drafted:

"*I wont be going through that brick wall he built and plastered the greater evil under concrete, I will go through that brick wall with faith! I know his mind I know how he thinks and what he is doing, his trying to hide money and trying to kill me there is a breaching of order case 565/01/23, The breaching of the order is under Application H199/22, so if I remember correctly we going to court on the 21 or 27 February 2023 it will be catastrophic for your client walking into a court appearing for a protection order that he has breached ?*

Just think about it Mr. Hugo

His umbilical cord is going to be cut he won't feed through it anymore it can't be stopped its like a mother giving birth to a child and cuts the cord, It like a man trying to stop a big wave with his two hands, there's just somethings that is impossible like in this case trying to beat the system protocol and procedure it always wins Mr. Hugo, protocol and procedures always wins something I learnt from Patricia De Lille.

Your client's ill behavior as a public figure in public office can no longer be condoned. What happens in the dark Mr. Hugo always comes to light. It's how life works haven't you learnt that by now?

I will fight this matter in the Highest Court if I have to its already in parliament with the portfolio of Corrections and Justice, and im using my right as a complainant as entrenched in Chapter 8 Court,

Administration and Justice 179(5)(d)2) in the constitution of the Republic of South Africa to query this matter as the relevant person before I approach the Supreme Courts.
Ek mag n sogenoemde kleurling is maar sekerlik nie dom nie, I have been following your clients strategy, I've looked at his alliances disperse his army and will now enter his city".

44.2 In an email message sent later that same day, the respondent calls for discovery (not in accordance with the Rules) in the damages action instituted under case number 7459/2022. He claims, among other things, financial information from the applicant about the political party that the applicant is a member of for the period between 2015 and 2023, as well as information pertaining to parliamentary allowances for the period between 2019 and 2023. The applicant submits that the respondent is not entitled to any of the information due to his claism being against the applicant in person, and not against any other person or any entity such as the political party of which the applicant is a member.

44.3 On 10 February 2023, the respondent sent an email message stating that he included the NPA in the email as they are investigating the applicant for "*unlawful court proceedings*". The respondent warns the applicant's attorney that, "*as a representative of the courts, you are obligated to the court and not your client. Please do not spoil the process*".

44.4 On that same day, the respondent forwarded a further email message which was also addressed to the NPA, informing them "*that the Applicant is infringing my right to public participation, stripping me from my right to be heard, wanting the court to accept something that is illegal to become legal*." He further requests the NPA to peruse the documents he attaches to the email "*for perjury*".

44.5 On 16 February 2023, the applicant's attorney addressed an email message to the respondent in which he requested that the matter under case number H199/2022 which was pending in the Cape Town Magistrate's Court be postponed on 21 February 2023 until such time as the present application had been finalised. The reason for this request was, *inter alia*, that the applicant was hoping to avoid incurring unnecessary costs, which at this stage amounts to a considerable amount of money, and which the applicant would never be able to recover from the respondent.

44.6 On 17 February 2023 the respondent answered that he did not agree to the matter being postponed and insisted that it proceeded to trial. As mentioned earlier, the respondent failed to attend the trial which was set down on 21 February 2023.

44.7 On 19 February 2023 the respondent notified the applicant's attorney that he would proceed with an application for default judgment against the Minister of Correctional Services and Justice, claiming an amount of R360 million. I have referred to these proceedings earlier in this judgment.

45. I gave the respondent an opportunity to address me in writing on the content of the supplementary affidavit (as he had not seen it prior to the hearing). He did so by delivering a supplementary affidavit containing allegations of unprofessional behaviour against the applicant's attorney, accusing him of practising "bad law" and unethically colluding with the applicant to undermine the respondent's litigation against them.

46. The respondent does not deny the content of the applicant's supplementary affidavit, but states that the applicant and his attorney are *"denying me the right to public participation, wanting the court to believe that the processes the respondent is following is that of incorrect and sinister and inconsistent for the development of law. I do not regret the processes I have followed to stop*

the plaintiff outside of the High Court. … This before the court is a classical David vs Goliath, the privilege vs the unprivileged, the poor vs the rich, the state vs the people. … *I have been ridiculed, bullied, humiliated, stripped from my rights and oppressed by the plaintiff and his two counsel in this trial proceedings while they have neem practicing bad law*".

47. The remainder of the affidavit alleges various instances in which the applicant has acted in a manner designed to scupper the respondent's litigation under a variety of case numbers, including "*irregular proceedings your client have taken by using evidence that was not disclosed or discovered to him by me*". It seems that the applicant had attached a document to an answering affidavit in civil litigation, which document the respondent had previously given to the police, but not to the applicant. The respondent was not pleased with the fact that the applicant had obtained the document, apparently from the police docket. The narrative is somewhat incoherent and it is often difficult to ascertain the connection between the instances referred to and exactly how the applicant is to have acted outside of the permissible parameters.

48. When one considers the situation – and the papers - holistically, there can be no doubt that the respondent's conduct qualifies as conduct contemplated in the Act. The applicant is bombarded at every turn with legal proceedings based upon offensive and repetitive allegations and conclusions, unsupported by the facts upon which reliance is placed. These allegations no doubt affect his good name and reputation as a public representative, even when one takes account of the warning encapsulated in the Chinese proverb that "*the tallest tree always experiences the strongest winds*", and that the applicant should therefore have to endure public criticism to some degree. What the respondent does, however, oversteps the mark.

49. The respondent's seemingly steadfast resolve in his cause and his trust in his own knowledge of the drafting of pleadings and affidavits and the legal process in general, to the extent that he has ignored this Court repeated advice to seek formal representation, render every process flawed and

invariably still-born. The only result is frustration for both parties (and the Court), escalating legal costs for the applicant, and the waste of court resources. I am inclined to agree with the applicant's submission that no costs order against the respondent will stop him in his endeavours against the applicant. This is illustrated by the fact that, when the application brought on 9 December 2022 were removed from the court roll, a costs order was made against the respondent. The respondent subsequently informed the applicant that he (the respondent) intended to pay any costs awarded against him in very small amounts over a long period of time. This attitude smacks of vexatiousness.

50. I do not know whether the submission made on the applicant's behalf is correct, namely that the respondent's ill-considered litigation is driven by the hope that the applicant would be forced into paying a vast sum so as to rid himself of the respondent's campaign. The email of 17 November 2022 to which reference has been made earlier is certainly indicative of the respondent's mindset. Whatever the motivation, however, the respondent's conduct cannot be allowed to continue in an uncontrolled fashion.

The recording

51. The day before the hearing of this application this Court's registrar received an email from the respondent, to which a recording was attached. The respondent asked that the Court listen to the recording because it apparently indicated that the applicant was "*showing cause to bring false claims against [the respondent] and have [the respondent] incarcerated as his personal political prisoner with the help of [a detective from the South African Police Service]*".

52. I did not listen to the recording as there was no application before me to have it admitted in the course of application proceedings. The respondent also did not comply with any of the rules of evidence which should be adhered to as regards the admissibility of any form of recording. The Court had, for

example, no evidence upon which to conclude that such recording was the original, and that there was no reasonable possibility of it having been interfered with in some way.[15]

Conclusion

53. In all of these circumstances, I find that that the respondent has persistently instituted legal proceedings and that such proceedings have been brought without reasonable grounds. I agree with the applicant that a proper case has been made out for the relief sought. The respondent is, given the state of his papers, not assisted by the *Plascon Evans* rule.[16]

54. In terms of section 2(1)(c) of the Act, an order under section 2(1)(b) may be given for a specific time period, or indefinitely. I am of the view that, given the history between the parties, the order that I intend to grant should be in place indefinitely, until such time as the order is varied or rescinded on good cause shown.

Costs

55. The party who succeeds should, generally, be awarded costs. There is no reason to depart from the general rule in the present matter.

Order

56. In the premises, it is ordered as follows:

(a) The respondent is declared a vexatious litigant pursuant to the provisions of section 2(1)(b) of the Vexatious Proceedings Act 3 of 1956 ("the Act").

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15 *S v Singh and another* 1962 (4) SA 288 (C) at 291A-B.

16 *Plascon-Evans Paints Ltd v Van Riebeeck Paints (Pty) Ltd* 1984 (3) SA 623 (A) at 634E-635C.

(b) The respondent is not allowed to institute any legal proceedings against the applicant in any Division of the High Court of South Africa or in any inferior court without the leave of the inferior court or of the High Court or any judge of the High Court, as the case may be, as contemplated in section 2(1)(b) of the Act.

(c) The respondent shall pay the costs of this application.

(c) The Registrar is directed to cause a copy of this order to be published in the *Government Gazette*, as contemplated in section 2(3) of the Act.

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P. S. VAN ZYL
Acting judge of the High Court

Appearances:

For the applicant: J. T. Benadé, instructed by Peet Hugo Attorneys

The respondent in person