IN THE HIGH COURT OF SOUTH AFRICA

(WESTERN CAPE DIVISION, CAPE TOWN)

CASE NUMBER: 15037/2021

REPORTABLE

In the matter between:

TURNERLAND MANUFACTURING (PTY) LTD	Applicant
And	
TAXING MASTER, WESTERN CAPE HIGH COURT	First Respondent
BASSON AND LOUW INCORPORATED	Second Respondent

JUDGMENT DATED 13 JULY 2023

KUSEVITSKY J

Introduction

[1] This is an opposed application for the review and setting aside of a taxation award made by the First Respondent[1] ("the Taxing Master") on 24 March 2021 in respect of Second Respondent's ("Basson Louw") fees and disbursements, as well as setting aside the warrant of execution dated 21 April 2021 which was issued by the First Respondent against the Applicant ("Turnerland') pursuant to the taxation award. The Taxing Master has not opposed these proceedings.

[2] It is common cause that the disputed taxation was done on an unopposed basis. It is the Applicant's case that the Notice of Taxation to tax Basson Louw's bill of costs, was not properly served on the Applicant in circumstances when Basson Louw had full knowledge that Turnerland had disputed its indebtedness to them.

[3] Basson Louw, who was the erstwhile attorneys of record for the Applicant prior to the institution of these proceedings, allege that they were instructed to represent the Applicant, in *inter alia* action proceedings against a company called Piketberg Farms (Pty) Ltd ("Piketberg"). They contend firstly that the Applicant was fully aware of the fact that the bill of costs was going to be taxed and that it had a right to object to the items listed therein. Secondly, and on a technical nature, Basson Louw argues that a taxation award can either be reviewed or alternatively set aside and that the Applicant cannot bring an application '*to review and set aside the taxation award*[2]. As a consequence, they argue, the relief that is sought in paragraph 4 of the Applicant's Notice of Motion, that the warrant of execution issued pursuant to the taxation award be reviewed and set aside, is not competent relief.

[1] The references to the parties in the Applicant's Practice Note and subsequent Heads of Argument reflects Basson & Louw Inc. as the First Respondent and the Taxing Master, Western Cape as the Second Respondent. This is incorrect. The parties will be referred to as they are cited in the Notice of Motion dated 2 September 2021.

[2] Para 38 of its Answering Affidavit

[4] Basson Louw further contends that the Applicant made payments of all accounts presented to it, but refused to make payment of the balance of the fees after the trial had been concluded. On this point, the Applicant contended that they had subsequently learned that during the running of the trial, that the Applicant's opponents, Piketberg, had presented a settlement offer on the second day of trial, which Turnerland says was not presented to them by their erstwhile legal representatives. Had they done so, they argued, it might not have been necessary to have run the matter for 19 days. As a consequence, the Applicant sought the referral of this aspect to oral evidence.

[5] Basson Louw disputes this allegation and Applicant later abandoned this part of the relief at the hearing of the matter, stating that the determination of this aspect was not necessary for the adjudication as to whether there was formal compliance of service of the Notice of Taxation.

Summary of the facts – Applicant's case

[6] Turnerland instituted an action ("the action") against Piketberg and Basson Louw was mandated to act on Turnerland's behalf in the trial. Basson Louw rendered legal services to Turnerland and made disbursements on its behalf, in executing such mandate.

[7] Basson Louw demanded payment of amounts claimed for services rendered and disbursements made during the course of the trial. Turnerland refused to make

payment of the balance of the amounts claimed by it. On 4 September 2020, Basson Louw sent Turnerland a notice in terms of section 345(1)(a) of the old Companies Act[3], read with Item 9 of Schedule 5 of the new Companies Act[4] ("the section 345 notice") *via* email in which Basson Louw demanded payment of the amounts claimed from Turnerland, failing which they would be liquidated if it failed to make such payment.

[8] Turnerland refused to make payment of the said amounts. Basson Louw accordingly applied to the Taxing Master for its attorney-client bill, which it claimed was due and payable by Turnerland to it, to be taxed. Basson Louw sent its notice of intention to tax the bill of costs ("the Notice to Tax") to the administrative manager of Turnerland, Mrs. Wilmari Turner ("Mrs Turner"), *via* email on 29 October 2020.

[9] Turnerland did not oppose the taxation and as a result, the Taxing Master taxed the bill of costs on an unopposed basis on 24 March 2021. Basson Louw thereafter obtained a warrant of execution against movable property owned by Turnerland pursuant to the taxation award ("the warrant"). On 11 May 2021, the Sheriff of this Court ("the Sheriff") attended at Turnerland's property and judicially attached property to the value of approximately R300,000.00 in satisfaction of the claim.

[10] From end May to end July 2021, Turnerland's current attorneys-of-record ("Turnerland's attorneys") exchanged correspondence with Basson Louw. Turnerland's attorneys addressed two issues with them.

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[3] Act 61 of 1973.

[4] Act 71 of 2008.

[11] The first issue was that Basson Louw proceeded with the taxation of the bill of costs on an unopposed basis when the bill of costs had not been properly served on Turnerland and when Basson Louw had full knowledge that Turnerland disputed its indebtedness to it.

[12] Secondly, Basson Louw's alleged failure to inform Turnerland of an offer of settlement that had been made by Piketberg ("the settlement offer") on the second day of the trial. In this regard, on 5 May 2021, the sole director of Turnerland, Mr Francois Turner ("Mr Turner"), was ostensibly informed by a representative of Piketberg, that the latter had made the settlement offer. As alluded to above, this issue was abandoned for purposes of these proceedings.

[13] On 26 July 2021, Basson Louw informed Turnerland's attorneys by way of correspondence that it had arranged for the attached property to be sold in execution on 20 August 2021. It is at this stage that Turnerland avers that it gained knowledge that an amicable settlement of the matter was not possible.

[14] Soon thereafter, Turnerland launched an urgent application in which it sought an order that Basson Louw *inter alia,* be interdicted and prohibited from acting on the warrant and proceeding with the sale in execution, pending the finalisation of this application. This Order was granted in their favour on 19 August 2021.

[15] Turnerland thereafter launched these proceedings.

[16] In summary, the Applicant contends that at all material times, the Applicant disputed that it was liable to Basson Louw for the sums claimed as they were of the view that the fees charged were excessive.

[17] The Applicant claims that they gained knowledge of the taxation award on 11 May 2021 when the Sheriff attended at the Applicant's premises and served the warrant issued pursuant to the taxation award. They furthermore acknowledge that it received an email enclosing Basson Louw's Bill of Costs on 29 October 2020. They however deny that service *via* email constitutes proper service because it was not served on the Applicant by the Sheriff of the Court, who would have explained the nature and exigency of the taxation process. Mr Turner states that his wife was unaware of the significance of the notice and bill of costs at the time of receipt thereof and what the Applicant's rights were in relation thereto.

[18] Turnerland argues that Basson Louw had full knowledge that the Applicant disputed the payment of any fees and disbursements as the parties had been in constant contact regarding the issue. They argue that Basson Louw ought to have ensured that the Bill of Taxation was properly served on the Applicant so as to ensure that the Applicant was aware of its legal rights in respect of taxation. In essence, the Applicant believed that the notices sent by Basson Louw were merely letters of demand sent by them and given that they had already informed them that they disputed its liability, they did not deem it necessary and or appropriate to respond thereto.

The relief sought

[19] The Applicant seeks the following relief:

19.1 Condonation for its failure to launch this application within a reasonable time;

19.2 That the issue of whether or not Basson Louw informed the Applicant of an offer of settlement, which was conveyed to the Second Respondent and/or the Applicant's then legal representative by Piketberg Sunrise and/or its legal representatives in the main action instituted by the Applicant against Piketberg under case number 12806/2016 on day 2 of the trial of the main action should be referred to oral evidence[5];

19.3 That the taxation award made by the Taxing Master dated 24 March 2021 in respect of Basson Louw's fees and disbursements be reviewed and set aside;

19.4 That the warrant of execution dated 21 April 2021 which was allegedly issued by the First Respondent pursuant to the taxation award be reviewed and set aside; and

19.5 That there be no order as to costs unless any Respondent/s oppose the application.

[20] Thus, in consideration of whether the taxation award made by the First Respondent on 24 March 2021 in respect of the Second Respondent's fees and disbursements in the main action should be reviewed and set aside, the only aspect which this court needs to determine is:

[5] As stated above, this relief was abandoned for the reasons advanced.

20.1 Whether the First Respondent's Notice of Intention to Tax was properly served on the Applicant; and

20.2 Whether the Second Respondent complied with Rule 70(4)(a) prior to taxation of the First Respondent's bill of costs.

The Respondent's case

[21] On 25 April 2018, the Applicant appointed Basson Louw as its legal representative in various matters. Wilmari Turner is the wife of Francois Turner, the Director of the Applicant. According to the Basson Louw, she signed the claim mandate and fee agreement. Basson Louw attended to a High Court action on behalf of the Applicant. The trial commenced on 19 November 2019 and ran for nineteen court days.

[22] Basson Louw states that the Applicant received interim accounts as the trial progressed and made regular payments when the accounts were delivered. They aver that at no stage during the conduct of the trial did the Applicant allege that the fees charged by Basson Louw and counsel were excessive or that counsel and / or Basson Louw were overreaching despite receiving interim accounts on a regular basis. On 18 August 2020 Basson Louw forwarded a fee note to the Applicant. On 26 August 2020, Basson Louw sent its account to the Applicant via email. Basson Louw states that up until 26 August 2020, the Applicant did not respond to the accounts sent despite various telephone calls and telephonic discussions and undertakings to pay.

[23] On 4 September 2020, Basson Louw addressed a letter to the Applicant in terms of section 345(1)(a) of the Companies Act, 61 of 1973. The notice was sent by email to the Applicant on 4 September 2020 and a hard copy was served by the Sheriff on 7 September 2020. The section 345 letter demanded payment of the amounts claimed from Applicant and threatened to liquidate Turnerland if it failed to make such payment.

[24] Basson Louw states that Applicant replied to the notice on 7 September 2020. In the email, Mrs Turner, who is the Financial Administration manager of the Applicant, advised as follows:

> *"Ek het voort gegaan en alle rekeninge tot op datum ontvang vir hierdie saak, voor gele vir taksering. Ek hoop om spoedig die resultate te ontvang."*

[25] In explanation of the aforesaid email which was sent by Mrs Turner to Basson Louw referencing the word '*taksering',* the Applicant describes the circumstances under which it was sent as follows: The Sheriff attended at the Applicant's farm in an unrelated matter. Mrs Turner informed the Sheriff that the Applicant disputed the sums claimed by their attorney and the Sheriff advised her that the Applicant could have the bill of costs taxed if it disputes the fees and disbursements charged by the Second Respondent. She says this is why she referred to '*taksering'* in her correspondence to them. She states however that she did not know what the actual process entailed.

[26] Basson Louw on the other hand argues that Applicant was fully aware of the fact that the bill of costs was going to be taxed and that it had a right to object to items therein. Notice of intention to tax the bill was served on the Applicant via email on 29 October 2020. The Notice, dated 27 October 2020, reads as follows:

> *"KINDLY TAKE NOTICE that ATTORNEY FOR PLAINTIFF intends submitting the attached bill of costs to the Taxing Master at CAPE TOWN for taxation.*
>
> *You may inspect the documents or notes pertaining to any item on the bill of costs at BASSON & LOUW INC. 29 Hof Street, Malmesbury, between the hours of 08h00 and 16h00 at a time as arranged (tel:…) for a period of ten (10) days after receipt of this notice.*
>
> *You may furthermore file a notice of intention to oppose taxation within ten (10) days after the expiry of the period permitted for the inspection.*
>
> *In your notice of intention to oppose you shall list all the items on the bill of costs to which you object, and a brief summary of the reason for your objection.*
>
> *Should you fail to file your notice of intention to oppose within the time specified, the bill of costs will be submitted to the taxing master for taxation without further notice to you.*
>
> *If you do not give notice of intention to oppose within the specified time, you may at the taxation, object to the items specified in your notice of opposition."*

[27] Basson Louw argues that the taxation notice itself explains the process and that the Applicant simply ignored the document despite it being very clear as to what steps had to be followed. They further argue that the purpose of service of court documents is so that the other party has knowledge thereof and in this instance it is clear that the Applicant had knowledge of the Bill of costs, the Notice of intention to tax and the right that it had to object to items contained in the Bill. They further allege that when told by the Sheriff that they could challenge the Bill of costs, they elected not to do so.

[28] They further argue that the Applicant only raised the issue of the account for the first time on 7 September 2020 and that after judgment in the main action was handed down on 5 October 2020, Mrs Turner sent another email to Basson Louw, explaining their dire financial predicament due to the trial. They say no mention of the amounts owing to them were made, nor to any dispute that they had in relation to the outstanding amounts.

[29] Notice of the intention to tax was emailed to the Applicant on 29 October 2020 and Basson Louw says that Applicant confirmed receiving same. They say the notice clearly explains that Basson Louw intended to have the bill of costs taxed by the Taxing Master and that the Applicant had ten days to file a notice of intention to oppose and to object to the items contained in the bill.

[30] The Applicant admits that an email was received from Basson Louw with a Bill of Costs. Mr Francois Turner however in his founding affidavit explains that his wife understood the process to be administrative and preliminary in nature in that she believed that it was the itemized billing of Basson Louw's fees and disbursements and was a demand for payment of same. Turnerland contends that following upon their appointment of a new set of attorneys, that they embarked upon the process of applying for leave to appeal and petitions to the SCA, which reasons were given in their explanation for the late filing of the review application.

[31] Finally, they argue that despite Mrs Turner enquiries as to the process of objecting to the items or invoices, she failed to explain why she did not, in fact, act in terms of the advice that she received. They also say that her explanation, that she

assumed that it was a process that would be undertaken or initiated by the Applicant, was not explained by her in light of the clear directions contained in the Notice which indicated what the process entailed and that it was clear from the documents that it was a process initiated by the Second Respondent.

Discussion

[32] The taxation and tariff of attorneys fees is regulated by Rule 70 of the Uniform Rules of Court. Rule 70(4)(a) states that "*The taxing master shall not proceed with the taxation of any bill of costs unless he or she is satisfied that the party liable to pay the costs has received due notice in terms of sub-rule (3B)*." ("own emphasis")

[33] Rule 70(3B) (a) provides that '*notice'* must be given to a party prior to enrolling a matter for taxation. The manner of service for this 'notice' is not defined.

[34] Author Erasmus *et al* notes that sub-rule (4)(a) makes provision that a Taxing Master shall not tax a bill unless he is satisfied that the party liable to pay same has received due notice as required by this sub-rule. Substantial compliance with the provisions of the sub-rule is sufficient[6]. Notice of a taxation may also be given at a chosen *domicilium citandi et executandi*.[7]

[35] Basson Louw argues that the taxation notice itself explains the process and that the Applicant simply ignored the document despite it being very clear as to what

[6] Grunder v Grunder 1990 (4) SA 680 (C) at 684C.
[7] Iscor Estates v Van Wyk 1966 (2) SA 386 (T)

steps had to be followed. They further argue that the purpose of service of court documents is so that the other party has knowledge thereof and in this instance it is clear that the Applicant had knowledge of the Bill of costs, the Notice of intention to tax and the right that it had to object to items contained in the Bill. They further allege that when told by the Sheriff that they could challenge the Bill of costs, they elected not to do so.

Did the Taxing Master comply with rule 70(4)(a) prior to taxation of the Bill of costs?

[36] It is common cause that the Taxing Master did not file any affidavit in explanation of his conduct in this matter. Rule 70 (4) (a) provides that the Taxing Master shall not proceed with the taxation of any bill of costs unless he or she is satisfied that the party liable to pay the costs has received due notice in terms of sub-rule (3B). The Applicant argues that the Taxing Master should not have taxed the bill of costs until such time that he or she was satisfied that Turnerland had been given due notice of the taxation. However, given the fact that the Taxing Master did proceed with the taxation of the matter, we must accept, in the absence of the contrary, that the Taxing Master must have been satisfied that due notice was given to Turnerland.

[37] The Respondent argues that the applicable rule does not call for 'service' of the Notice of taxation in the true sense of the word upon the other party. What is required of the rule in terms of Rule 70 (4)(a) is that "[t]he Taxing Master shall not proceed with the taxation of any bill of costs unless he/she is satisfied that the party liable to pay the costs has received -

(a) Due notice in terms of sub-rule (3B).

[38] The Respondent argues that what is required of the Taxing Master is to make sure that the party liable for the costs has Notice of the other party's intention to have a bill taxed and that such party was given the opportunity to inspect such documents and notes, whereupon such party is required to file written notice of opposition, specifying the items on the bill of costs objected to.

[39] On Applicant's version, the Notice was received as required in terms of rule 70(3B). The Taxing Master was seemingly satisfied that there was compliance with the said rule since there is nothing to suggest that the rule requires that service of the notice had to have been effected by the Sheriff of the court. I am therefore not in agreement with the contention that the Taxing Master's non-compliance with Rule 70(4) rendered the taxation of the bill of costs irregular, since there was no con-compliance with the rule. However, this is not the end of the enquiry.

To serve or not to serve?

[40] The status of a taxed bill of costs is akin to a judgment of debt. In the case of a judgment debt, failure to satisfy that debt may lead to warrants of execution. To this extent, it has become common practice to require personal service on a debtor where judgment is being sought and where their rights to immovable property may be compromised in the event that satisfaction of the debt is not met by the attachment and sale of movable property.

[41] It is also trite that the institution of proceedings is served on the party by the Sheriff of the Court. This is of course so that the proceedings come to the attention of the party being served and that said process is explained to them.

[42] Rule 4(1)(d) of the Rules of Court *inter alia* provides that it shall be the duty of the Sheriff or other person serving the process or documents to explain the nature and contents thereof to the person upon whom service is being effected. In fact, the usual process is that sheriff's returns of service would normally indicate, where service has been effected upon an individual, that a copy of the process has been handed to the person concerned after '*explaining the nature and exigency of the said process*'.

[43] Similarly, the purpose of notices, adopting the phraseology used in the National Credit Act[8], is to '*draw the default to the notice of the consumer'*. This is done in the prescribed manner. The purpose, in my view, is not only to ensure that personal service thereof would come to the attention of the debtor, but that the particular process being served is explained by the Sheriff of the Court, to the party so served.

[44] The situation in this case is somewhat different as it is the Applicant's previous legal representatives who are now proceeding against them, at the end of litigation. In my view, and especially in such instances, it is imperative that such notice be formally served on the party. I cannot see that there should be a distinction in the case of a notice of a taxation, which order, such as in the present instance,

[8] Act 34 of 2005

would have the consequence of the attachment of immovable property in the event that the sale of the movable property does not satisfy the debt.

[45] This requirement is even more prescriptive where the debtor involved is unrepresented. Thus, whilst in my view there has been substantial compliance with the rules, I am of the view that the question that needs to be determined is whether the Applicant is entitled to have the taxation order set aside.

Review or Rescission?

[46] The last aspect which I have to deal with is the contention by Basson Louw that the relief sought by the Applicant is incompetent. The Applicant argues that the principles that are applicable to the setting aside of taxation of a bill of costs are the same as those that are applicable to the setting aside of default judgements.[9] The argument is that the granting of an award against a party by the Taxing Master prejudices such party's rights. The award is of a final nature and the party is required to satisfy the award, unless set aside. The Applicant argues that Turnerland was unrepresented and a lay litigant when Basson Louw sent the notice of taxation *via* email.

[47] In *Sheriff of Pretoria North East v SA Taxi Development Finance and Others*[10], Crutchfield J had opportunity to consider multiple applications for the

[9] Interactive Trading 115 CC and Another v South African Securitization programme & Others 2019 (5) SA 174 (LP).
[10] (23904/2017 [2023] ZAGPJHC 346 (14 April 2023)

rescission and setting aside of a Taxing Master's allocator in a so-called 'test-case.' Two issues arose there for determination, namely whether a taxed bill of costs can be rescinded and whether the applicant met the requirements of a rescission of the taxed bill of costs at common law. The respondent in that matter contended that the Rules do not permit the rescission of a taxed bill of costs and that the latter can only be reviewed, not rescinded. Relying on *Tommy's Used Spares CC Trading as Tommy's Auto Parts v Attorneys Anand-Nepaul and the Taxing Master of the South Gauteng High Court*[11], that court determined that application in terms of the common law in that the rescission of a taxed bill of costs was indeed competent.

[48] In *Gründer v Gründer and Another*[12], Conradie J held that the common law principles applicable to the setting aside of default judgments apply also to the setting aside of a Taxing Master's *allocator*.[13] An order as to costs cannot be enforced without the Taxing Master's quantification thereof, and a quantification done in the absence of one of the litigants ought to be open to challenge on the same basis as are default judgments.[14] This would ordinarily mean that an applicant would have to satisfy a court that the three requirements for the rescission of a default judgment is present which would justify such an order.

[49] Another consideration which lends credence to the finding that common law principles should apply is the fact that, as Conradie J opines[15], a review of a decision does not automatically suspend the outcome of the administrative action. This is in

[11] (Case No.36924/202) South Gauteng High Court, Johannesburg (1 June 2020)
[12] 1990 (4) SA 680 (C)
[13] at 685B-C
[14] ibid at 685G
[15] at 683G-H

line with his finding that although the function of a Taxing Master is *quasi-judicial* in nature - that their functions are unique in that on the one hand, although it is an administrative function that is performed in terms of rule 70 - it is still an exercise of a discretion; whereas an application to set aside or rescind a Taxing Masters *allocatur* would have the automatic effect of suspending the execution of the judgment. This, in my view should be the end of the debate of the reviewability of such awards.

Has the Applicant made out a case for rescission in terms of the common law?

[50] The Applicant must first show good cause, being a reasonable explanation for the default, secondly that the application is brought in good faith and lastly that the *bona fide* defence *prima facie* holds prospect of success. Notwithstanding compliance with these requirements, a court retains discretion to be exercised judicially on a consideration of the relevant circumstances.[16] Based on the common cause facts, I accept that it is reasonable for Mrs Turner to have assumed that the Notice which was emailed to her was a procedural 'letter of demand' and that she did not understand the purport of the notice. I am also satisfied that the application is brought in good faith and that they have a prima facie bona fide defence. The Applicant at all times indicated that they had questioned the bill of costs. Most certainly, if it is proved at the adjudication of the contemplated proceedings as to whether a settlement offer was indeed made on the second day of the action, then that would have a serious impact on the quantification of the bill of costs. I am therefore satisfied that the Applicant is entitled to have the Taxing award rescinded and I am of the view that any further taxation in that matter should only occur upon the finalisation of that dispute.

[16] SA Taxi *ibid* at para 12

Condonation and Costs

[51] Costs are always in the discretion of the court and it is trite that costs usually follow the result. However, a party's conduct may also determine whether or not a punitive cost order is justified. In this matter, judgment in the action was granted on 17 September 2020. On 29 October 2020, the notice to tax was received via email. On Applicant's version, their new attorneys of record were mandated to attend to the application for leave to appeal. On Basson Louw's version, the Applicant's were legally represented. If this version is to be accepted, then one would question why the said notice was not served on their attorneys of record. On the Applicant's version, they were unrepresented. Be that as it may, on 24 March 2021, the taxation was held on an unopposed basis and the writ issued on 11 May 2021. This is also the date upon which the Applicant says it gained knowledge of the taxation award. Between May and July 2021, the Applicant corresponded with Basson Louw and ultimately were forced to bring an urgent application to stay the attachment of their property on 19 August 2021. I am satisfied that there was no dilatory conduct by the Applicant.

[52] After the hearing of the matter, I asked the parties to make further submissions regarding the question of costs. Mr Steyn for the Second Respondent submitted that even if this court was inclined to grant the relief sought by the Applicant, that a rescission by its very nature involved an indulgence by a party, and relying on AC Cilliers in *Law of Costs*[17], argued that it has been held that an applicant for indulgence should pay all costs as can reasonably be said to be wasted

[17] Meintjies NO v Administrasieraad van Sentraal-Transvaal at 294H

because of the application. I am not in agreement with this proposition. First of all, as submitted by Mr Felix for the Applicant, it is not an indulgence that is being sought by the Applicant in the usual sense. Secondly, and most certainly, the actions of the Second Respondent bordered on *mala fides*, especially given the allegations that it faces regarding the alleged settlement offer in the action - there is no reason in my view, why they could not have agreed to set aside the *allocatur* pending the determination of that issue.

[53] For all the reasons above, I am satisfied that the Applicant has made out a case for the relief sought. In the circumstances, the following order is made:

ORDER:

1. The taxation award made by the First Respondent dated 24 March 2021 in respect of the Second Respondent's fees and disbursements in the main action is set aside.
2. The warrant of execution dated 21 April 2021 which was issued pursuant to the taxation award, is set aside.
3. The Second Respondent is ordered to pay the costs of this application.

KUSEVITSKY, J

JUDGE OF THE WESTERN CAPE HIGH COURT

ON BEHALF OF APPLICANT	**ADV. KJ FELIX**
ON BEHALF OF RESPONDENTS	**ADV. R STEYN**