

SPECIAL TRIBUNAL OF SOUTH AFRICA
Judgment summary

<i>Kajee v the Special Investigating Unit and Others</i>	
URL	https://lawlibrary.org.za/akn/za/judgment/zast/2022/42/eng@2022-09-16
Citations	(GP22/2021) [2022] ZAST 42 (16 September 2022)
Date of judgment	16 September 2022
Keyword(s): ¹	Application, compel, documents, recordings, inspection,
Case type ²	Application, documents, recordings, inspection, pleading, corrupt, collusive relationship, notice, compel
Result	Dismissed with costs
Flynote ³	Civil procedure – Uniform Rule 35(14) – an application to compel the inspection of documents and recordings in the Special Tribunal is required to satisfy the requirements of Rule 35(14)
Legislation and International Instruments ⁴	<ul style="list-style-type: none"> ● Tribunal Rule 17(2) ● Rule 35(14) of the Uniform Rules of the Court
Cases cited as authority ⁵	<ul style="list-style-type: none"> ● Centre for Child Law v Hoerskool Fochville and Another 2016 (2) SA 121 (SCA)
Facts ⁶	In the main action, the respondents sought to recover approximately R27 million from the applicant for damages the State suffered as a result of the alleged corrupt and collusive relationship between the applicant and the office of the State Attorney. The applicant then called upon the respondents to make certain documents and recordings available for inspection in terms of Rule 35(14) of the Uniform Rules of the Court, which he argued would be required for him to submit his plea in the main action. The respondents refused to make the records available and argued that the applicant did not require them for pleading. The respondents eventually replied to the applicant's Rule 35(14) notice and furnished certain records, but the applicant was not satisfied with the reply and persisted with the present application to compel the respondents to furnish specific records, referred to as items 1, 3

¹ Clarify the type of issues that come up in the case.

² Whether Trial, Application or Appeal.

³ **Area of law** - topic – subtopic.

⁴ Legislation/ International instrument title and section numbers.

⁵ List of cases considered to be important precedent (case name and citation).

⁶ Brief facts about the case (max 150 words).

	and 7.
Summary ⁷	The Tribunal was asked to determine whether the applicant had made out a proper case for the respondents to be compelled to make certain documents available to him for inspection in terms of Rule 35(14).
Decision/ Judgment ⁸	The application was dismissed, and the Tribunal ordered the applicant to deliver his papers in this application in terms of Tribunal Rule 7(3) by 23 September 2022. The applicant was also ordered to file his plea, counterclaim or exception in the main action by 30 September 2022. The respondents were ordered to pay the applicant's costs incurred until 26 August 2022, and the applicant was ordered to pay the costs of this application incurred after 26 August 2022.
Basis of the decision ⁹	In respect of item 1, the Tribunal found that the respondents had complied with Rule 35(14) by providing an affidavit confirming that the documents sought were not in their possession. In respect of item 3, the Tribunal found that the applicant's request was inconsistent with Rule 35(14) as he had failed to specify the documents that pertained to his request. In respect of item 7, the Tribunal found that the documents sought were irrelevant for pleading purposes. As none of the documents sought by the applicant complied with Rule 35(14), the applicant failed to make a proper case for the respondents to be compelled to comply with his notice.
Reported by	African Legal Information Institute (AfricanLII)
Date	17 September 2022

⁷ Summary of the determination of legal questions and/or grounds of appeal (between 150-250 words).

⁸ A brief summary of the ruling/judgment of the court (max 100 words).

⁹ A 1-2 sentence summary of the basis of the decision (i.e. which legal rules were relied on).