IN THE HIGH COURT OF SOUTH AFRICA
FREE STATE DIVISION, BLOEMFONTEIN

Case No. : 3676/2013

In the matter between:-

NATIONAL DIRECTOR OF PUBLIC PROSECUTIONS Applicant

and

SEBOLAI PIGANIN RAHANTLANE Respondent

HEARD ON: 14 AUGUST 2014

JUDGMENT BY: RAMPAI, AJP

DELIVERED ON: 11 SEPTEMBER 2014

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[1] These were motion proceedings. The applicant applied for the rescission of the court order and ancillary relief. His motor vehicle was declared forfeit to the state. Aggrieved by the forfeiture order, he motioned these proceedings. The respondent opposed the application.

[2] I deem it necessary to put the factual matrix of the matter into its historical perspective. I pause to mention that these motion proceedings were preceded by motion proceedings initiated by the respondent. Some of the facts not apparent from the current affidavits can be gleaned from the respondent's affidavit filed in connection with the preceding applications.

[3] The applicant lived at Ficksburg. He owned a motor vehicle with registration number D[…]. The motor vehicle was a Ford Bantam light delivery van. On 16 May 2013 he and a certain Mr Thabiso Motseki travelled together from Ficksburg. The applicant was the driver and Motseki was the only passenger. The passenger hailed from Maputsoe in the neighbouring state of Lesotho. From Ficksburg they travelled towards Clocolan, which town they passed and proceeded towards Ladybrand.

[4] On the same day, 16 May 2013, two police officers were on duty on the public road. The police vehicle they used was clearly marked as such. It was manned by two police officers, namely warrant officer J. van Heerden and warrant officer A.A. Hollzhauzen both stationed at Ladybrand police station. Warrant officer Van Heerden was the driver while warrant officer Hollzhausen was the only passenger. Shortly before they met the applicant they were dutifully doing crime prevention patrol on the provincial road R26, otherwise commonly known as Maluti Route. They were patrolling the stretch of the road between Ladybrand and Clocolan.

[5] Approximately 15 km before the civilians reached Ladybrand, they met the police. The civilians and the police met at or about 11h35. The loading compartment at the back of the silver civilian vehicle was covered with a black tarpaulin. With the consent of the applicant, warrant officer Van Heerden searched the vehicle. By then he had already introduced himself as a police officer to the applicant and his passenger. Warrant officer Van Heerden opened the tarpaulin. He noticed six black plastic bags. He opened them. He discovered that those large black plastic bags contained cannabis. The applicant and his passenger were arrested for dealing in cannabis.

[6] From the scene the two suspects were taken to Ladybrand police station where they were detained. In due course the cannabis was weighed. It was established that its mass was 53,7 kg. The street market value thereof was estimated to be R53 700.00. The vehicle and its cargo of cannabis were seized by the police.

[7] On 20 May 2013 the applicant and his passenger appeared in the Ladybrand district court as accused no 1 and accused no 2 respectively – exhibit “b”. The applicant pleaded not guilty, but his co-accused pleaded guilty. He was accordingly convicted for contravention of section 5(b) of the Drugs and Drug Trafficking Act 140 of 1992. The court then ordered that the applicant be separately tried. The district magistrate court then proceeded further in respect of the applicant’s co-accused. Mr Motseki was sentenced in terms of section 276(1)(b) of the

Criminal Procedure Act 51 of 1977. He was sentenced to 21 (twenty one) months' imprisonment of which 9 (nine) months were conditionally suspended for 5 years. The 53.7 kg cannabis was declared, in terms of section 21 Act 140 of 1992, forfeit to the state. The relevant case number was 853/2013.

[8] Still on 20 May 2013 the applicant appeared again, but alone in the Ladybrand district court. The applicable court case number was 866/2013. Seemingly the court returned the verdict of not guilty - see anx "e" the applicant's supporting affidavit.

[9] Warrant officer Hollzhauzen became the investigating officer of the criminal case. His investigation established

- that the vehicle seized by the police was officially registered in the name of one Mahadik;
- that the registered owner resided at 52 Z[…] Street, Ficksburg;
- that the vehicle was registered as Ford Bantam LDV D[…]; and
- that it was so registered on 18 January 2013.

These facts were established on 27 May 2013.

[10] On 13 September 2013 an application was launched *ex parte* by the respondent *qua* applicant basically against the applicant *qua* defendant. The application was brought in terms of section 38(1) of the Prevention of Organised Crimes Act 121 of

1998. Kruger J heard the application on Thursday, 19 September 2013 *ex parte* and in camera. He then granted a preservation order in terms of section 38(2) of POCA Act 121 of 1998. The preservation order prohibited anyone with the knowledge of such order from dealing with the Ford Bantam D[…] in any manner other than as required and permitted by the preservation order. The preservation order called upon any person who had an interest in the seized motor vehicle and who intended opposing the forfeiture order or who intended applying for the exclusion of his or her interest from the contemplated forfeiture order to enter an appearance to defend within 14 calendar days after service or publication of the provisional order.

[11] The interested person specifically identified in in the main preservation application for service of the preservation order was Mr Sebolai Rahantlane, the applicant in the current rescission application – *vide* par 3 preservation order and notice in terms of section 39(1)(b) of POCA.

[12] On 5 December 2013 the National Director of Public Prosecutions filed an application in terms of section 48(1) POCA to have the Ford Bantam DWR051FS, owned by Mr Sebolai Rahantlane and seized by the police at Ladybrand on 16 May 2013, declared forfeit to the RSA State. The vehicle was already subjected to preservation order granted by Kruger J on 19 September 2013. The director's forfeiture application was argued before me on Thursday, 12 December 2013. The director averred that the sheriff duly served the preservation

order granted in terms of section 38(1)(b) of POCA 121 of 1998 on the vehicle owner, Mr Sebolai Rahantlane, on 9 October 2013 – *vide* anx "bs2" p 16 of the record; that the sheriff also served the public notice in terms of section 39(1)(b) of POCA 121 of 1998 on the same specially identified defendant on the same day 9 October 2013 – *vide* anx "bs2" p 17 of the record; that the notice of motion, the supporting affidavit and annexure thereto were also served by the sheriff upon the defendant on 9 October 2013; that the sheriff had served all the aforesaid court papers upon the defendant personally at his place of residence and that such service notwithstanding the defendant had not in any way signalled his intention to oppose the grant of the forfeiture order.

[13] Having considered the director's application and counsel's submission, I granted a forfeiture order in terms of section 48(1) read together with section 53(1)(b) of POCA 121 of 1998. The declaration effectively stripped the defendant of all his real rights, title and interest in the Ford Bantam D[…]. Since 12 December 2013 all rights, title and interests in the property vest in the state.

[14] On 2 February 2014 the erstwhile defendant, Rahantlane, filed the current rescission application to have the forfeiture order I granted on 12 December 2012 in his absence, rescinded. The residual relief sought by the applicant was that he be granted leave to oppose the respondent's forfeiture application; that all the executive steps taken concerning the disposal of the motor vehicle in question be stayed pending the outcome of the fresh

adjudication of the forfeiture application and that the respondent be directed to pay the costs of opposing the rescission application. Although the rescission application was initially enrolled for hearing on 20 March 2014, it was finally argued before me on 14 August 2014. About those historical facts there was no dispute.

[15] The dispute centred around a few points. Among others, the parties disagreed as regards the following:

- the relationship between the applicant and his passenger, Mr Thabiso Motseki;
- the precise place where they met;
- the circumstances in which the police officers met them;
- the question whether the applicant had a *bona fide* defence;
- the question whether he had given adequate explanation for this failure to oppose the forfeiture application; and
- the correct outcome of the criminal proceedings against him in the district court – to wit contravention of section 5(b) of the Drugs and Drug Trafficking Act 140 of 1992 and the effects thereof on the forfeiture order.

[16] The issue in the application was whether good cause had been shown by the applicant to warrant the setting aside of the default order I granted against him in terms of section 53 of POCA on 5 December 2013.

[17] Mr Nel, counsel for the applicant, submitted that the applicant had made out a proper case for the relief sought, as fully set out in the notice of motion. Accordingly, counsel urged me to rescind the forfeiture order, grant the applicant leave to oppose the forfeiture application and direct the respondent to pay the costs.

[18] Mr Ntimutse, counsel for the respondent, differed. He submitted that the applicant had failed to show good cause to justify rescission of the forfeiture order. Accordingly, counsel urged me to find in favour of the respondent by dismissing, with costs, the applicant's rescission application.

[19] In general, rescission of judgment is governed by Uniform Rule 31(2)(b) which regulates:

> "(b) A defendant may within 20 days after he has knowledge of such judgment apply to court upon notice to the plaintiff to set aside such judgment and the court may, upon good cause shown, set aside the default judgment on such terms as to it seems meet."

[20] The concept or phrase "good cause shown" was elucidated in **Madinda v Minister of Safety and Security** 2008 (4) SA 312 (SCA).

[21] In an application for rescission of default judgment, it is incumbent upon the applicant to adequately explain the reasons for the delay so that the judge can understand what

really led to the default – **Silber v Ozen Wholesalers (Pty) Ltd** 1954 (2) SA 345 (A).

[22] The procedure as regards the initial preservation order in terms of section 38(1), as well as the procedure as regards the subsequent forfeiture order in terms of section 48(1) are both located in chapter 6 of the Prevention of Organised Crimes Act 121 of 1998. See **National Director of Public Prosecutions and Another v Mohamed NO and Others** 2002 (4) SA 843 (CC) par [19]; Kruger: **Organized Crime and Proceeds of Crime Law in South Africa**. The theme of the chapter is about the instruments of crime. Here the instrumentality of the offence and not the person of the offender takes the centre stage. The primary focus of the inquiry is not the role played by the owner of the property, but rather the role of the property itself in the commission of the crime or the furtherance of a crime regardless of the identity of the actual perpetrator who used the property as an instrument – **National Director of Public Prosecutions v RO Cook Properties (Pty) Ltd; National Director of Public Prosecutions v 37 Gillespie Street Durban (Pty) Ltd and Another; National Director of Public Prosecutions v Seevnarayan** 2004 (2) SACR 208 (SCA) at par [21]. That is the first stage of the chapter 6 inquiry.

[23] The second stage of chapter 6 inquiry comes into play once it has been shown that a specifically identified property had been used as an instrument of crime. The secondary focus of the forfeiture inquiry shifts to the state of mind of the owner of the

property implicated as an instrument in the commission of a crime. The owner's state of mind becomes crucial at this stage when the judge has to determine whether real rights or certain interest should or should not be excluded from the forfeiture order sought – **RO Cook Properties**, *supra*.

[24] It follows from the aforesaid exposition of chapter 6 procedures that a procedure as regards restraint order and the twin procedure as regards confiscation orders are foreign to chapter 6. Instead, such procedures are domestically located in chapter 5. In that domain the role of the property owner or wrongdoer and not the property as such is a dominant theme of the confiscation inquiry. Therefore, a property not directly implicated in the commission of a specific crime, may be targeted on the grounds that it was criminally acquired by means of organised criminal activity or that it represented proceeds of crime.

[25] In his supplementary heads of argument counsel for the applicant abandoned his original heads of argument *in toto*. The concession that chapter 5 did not apply to the respondent's main application, which gave rise to the forfeiture order, was correctly made.

[26] I now turn to examine the facts in the instant matter. They are largely common cause as regards the first stage of the inquiry. The applicant was the *de facto* owner of the motor vehicle. There was a passenger in his motor vehicle. They travelled together from somewhere in the Ficksburg district. The police officers searched the applicant's motor vehicle. They found a

53,7 kg cargo of cannabis in it. The applicant and his passenger were criminally charged for contravention of section 5(b) of the Drugs and Drug Trafficking Act 140 of 1992. His passenger was convicted on his plea.

[27] At par 8.2 of his supporting affidavit the applicant stated that his vehicle was not instrumentally used in the furtherance of a crime. He made that assertion because, as he reckoned, no such evidence was led at his trial on 20 May 2013. The contention was fundamentally flawed. The magistrate court lacks jurisdiction to entertain forfeiture applications. Only the high court has jurisdiction to entertain applications for preservation orders and the related forfeiture orders.

[28] On those proven facts Mr Ntimutse's submission that the applicant's property was criminally used as an instrumentality of an offence, was very persuasive. That much Mr Nel correctly conceded – *vide* par 8.6 applicant's supplementary heads of argument. See Kruger, *op cit*, p 116 at par c; **National Director of Public Prosecutions v Seloane** [2003] 3 ALL SA 102 (NC).

[29] In terms of section 38(2) of POCA 121 of 1998 the high court is empowered to grant a preservation order if there are reasonable grounds to believe that a specified property is an instrumentality of an offence referred to in schedule 1 of POCA or is the proceeds of unlawful activities or both. The forfeiture application which precipitated this rescission application was brought under section 48 of POCA to obtain an order declaring

the property forfeit to the state on the grounds that the property represented proceeds of unlawful activities or that a property was an instrumentality of offences listed under schedule 1 to POCA or both. In terms of section 48(1) an application to declare seized property forfeit to the state may be made by the director in respect of property that is subject to a preservation order while such order is still in force.

[30] As I have already indicated, counsel for the applicant no longer supported the contention that the applicant's motor vehicle was not an instrumentality of an offence. The applicant's contrary allegation to that effect in his supporting affidavit was deemed to have been implicitly abandoned. I conclude therefore that the applicant's motor vehicle was unlawfully used as a mobile instrument to commit the crime.

[31] Now the second stage of the inquiry – The applicant's contention was that he did not have the knowledge that Mr Motseki's luggage consisted of a prohibited substance, cannabis. The respondent's contention was that the two occupants of the light delivery van were transporting the load of cannabis together.

[32] According to the applicant he drove alone from his place of abode on the day in question. He did not say at what time he drove off. He was on his way to Kimberley. Again he did not say what the purpose of the trip was. Whether he was on a business or private errand did not appear on his supporting affidavit. By sheer coincidence, he alleged, he met a

hitchhiker. Precisely where at Ficksburg he and the total stranger met he did not disclose. He agreed to give the hitchhiker a lift from Ficksburg to Ladybrand. The hitchhiker had a luggage which consisted of several bags. The hitchhiker loaded his luggage onto the back loading compartment of his van. He did not know the several bags contained cannabis. He did not enquire or ascertain on his own accord, so he suggested.

[33] In the first place, I find it highly improbable that a drug trafficker, with six large plastic and heavy plastic bags of 53,7 kg cannabis would, in broad daytime, wait on a public road to hitchhike. One thing certain was that he could not have walked on foot from Maputsoe or wherever he came from, to the spot on a public road at Ficksburg, where the applicant found him. The mass of the drug cargo was simply too heavy for the man to carry alone. The risk of arrest would have been so obviously great that the hitchhiker was unlikely to have taken. The hitchhiker did not precisely say as to where he met the applicant. All these cast serious doubt as regards the circumstances in which the two men met. There are strong indicators that the two did not meet by chance on a public road; that they were not strangers to each other and that they were in it together before they got onto the Maluti Route.

[34] In the second place, the version of the applicant as regards the circumstances in which he met the two police officers was disputed. His version was that he stopped along the road before he reached Ladybrand. He did so at the request of the

hitchhiker. There he waited for the hitchhiker's wife. He kindly agreed to wait. He did not mention the name of either the hitchhiker's or that of his wife. The applicant's version was disputed by the two police officers. According to them the van was in motion when they first noticed it on the public road. They followed it and signalled to the applicant to stop. He obliged, they said.

[35] Their version was that the vehicle was in motion and that they caused the applicant to stop it, was corroborated by the applicant's companion, Mr Motseki. In his statement in terms of section 112 of the Criminal Procedure Act 51 of 1977 he was recorded as follows:

> "BESKULDIGDE: Die 16de het die polisie by ons gekom, hulle het ons **kar na die kant afgestaan**, toe sê hulle ons moet daar staan en hulle het nou ondergesoek, hulle het ons ondergesoek.
> HOF: **Reg so u sê die voertuig waarin u ry word afgetrek deur die polisie** en het hulle toe die voertuig deur soek, is dit wat u sê?
> BESKULDIGDE: **Ja Edelagbare.**"

[36] It followed, therefore, that the version of the applicant was probably false. Since he showed himself to be untruthful about his meeting with the police officers, his version about his meeting with Mr Motseki was likewise probably false.

[37] In the third place, the conduct of the applicant on the scene was inconsistent with that of an innocent and ignorant driver. He showed no surprise to the police officers or anger towards the stranger who caused him all the unexpected trouble.

Instead, he appeared shocked at the time warrant officer Van Heerden stopped him before the police officers had even found out that the bags contained cannabis. The guilty are afraid, so goes the saying. That was the first thing.

[38] When the cannabis was discovered, he did not appear innocently surprised to see cannabis on the back loading compartment of his vehicle. His behaviour and emotions were not surprising at all. He was not surprised because he probably knew, right from the outset, that the bags contained cannabis. He did not spontaneously inform warrant officer Van Heerden that he did not know that the bags contained cannabis.

[39] He did not inform the police officer, there and then, that his passenger was a total stranger to him who had hitchhiked a lift. He did not inform the police officer that he did not help the passenger to load the bags onto the van. Worse still, he did not instantly confront the passenger on the scene about loading the cannabis on his motor vehicle without his consent. He did not say to the police he would not have given the passenger a lift had he known that his cargo consisted of cannabis. Like his passenger, instead of protesting his innocence, he guiltily resigned to events.

[40] Mr Ntimutse submitted that it was highly unlikely that the applicant would have allowed a total stranger to load six heavy bags onto his vehicle without enquiring as to their contents. On that notorious route most residents of Ficksburg would

probably have personally ascertained that such suspicious bags contained incriminating stuff.

[41] In my view those multiple omissions were telling against the applicant. The applicant's conduct at the very crucial moment of the entire episode was not consistent with the conduct of an innocent motorist who tried to help someone along the way, but ended up in the trouble he never saw coming.

[42] According to the applicant the police discovered the cannabis and confronted him and his passenger. The passenger instantly acknowledged that the cannabis was his and what was the applicant's reaction?

> "I reported to the police that the vehicle is my property."

In a nutshell, as can be seen, that was the high watermark of the applicant's version. A truly innocent motorist would have done much more than the applicant did. He failed to deny knowledge of the cannabis found on his vehicle. He did not distance himself from the cannabis or from his passenger. The impression he tacitly created was that they were acting in cahoots.

[43] I have considered the grounds for the respondent's belief, not only in support of the submission that the applicant's vehicle was criminally used as an instrument of an offence, but also that the applicant factually knew or probably knew that his vehicle was used as such. It appeared to me, on the facts,

that the applicant was not merely aware of such unlawful use of his property, but actively participated in such unlawful use. There can be no reasonable doubt, therefore, that he had a guilty state of mind at all times from the moment the cannabis was loaded onto his vehicle. That jelled very well with his emotional state.

[44] The applicant, unlike his passenger, pleaded not guilty which was why the trials were separated. Since he had so pleaded, a lis was declared between him and the state. The door was shut for the state to withdraw the charge. As an accused in that situation, he became entitled to the verdict. That being the case, Mr Nel's submission was correct. The applicant was found not guilty, as correctly noted in anx "e". The argument of Mr Ntimutse, to the contrary, as well as the averments of the respondent's deponent and witnesses on that point, were untenable.

[45] The high court proceedings, which the applicant would like to attack, were civil and not criminal in nature – section 37(1) Act No 121 of 1998. The outcome of the criminal proceedings in the district magistrate court was of no moment to those forfeiture proceedings – section 50(4) Act No 121 of 1998 specifically provides:

> "(4) The validity of an order under subsection (1) is not affected by the outcome of criminal proceedings, or of an investigation with a view to institute such proceedings, in respect of an offence with which the property concerned is in some way associated."

[46] The applicant's vehicle was, with the full or probable knowledge of the applicant, not in some way but in a big way closely associated with the crime of dealing in cannabis in contravention of section 5(b) of the Drugs and Drug Trafficking Act 140 of 1992. That being the case, the acquittal of the applicant had no bearing on the validity or competence of the forfeiture order I made on 12 December 2013. In coming to that conclusion, I was fortified by several decisions such as **National Director of Public Prosecutions and Another v Mohamed NO and Others** 2002 (4) SA 843 (CC); **National Director of Public Prosecutions v RO Cook Properties (Pty) Ltd; National Director of Public Prosecutions v 37 Gillespie Street Durban (Pty) Ltd and Another; National Director of Public Prosecutions v Seevnarayan** 2004 (2) SACR 208 (SCA) at 221; **National Director of Public Prosecutions v Prophet** 2003 (8) BCLR 906 (C).

[47] At par 8.4 of his supporting affidavit the applicant contended:

> "My further defence on the merits is that I was found not guilty in the criminal trial. I find it strange that respondent omits this important information in the main application."

[48] In **Mohamed's** case, *supra*, at par [17] Ackermann J, writing for the unanimous court, said the following:

> "Section 38 forms part of a complex, two-stage procedure whereby property which is the instrumentality of a criminal offence or the proceeds of unlawful activities is forfeited. That procedure is

> set out in great detail in ss 37 to 62 of the Act, which form chap 6 of the Act. Chapter 6 provides for forfeiture in circumstances where it is established, on a balance of probabilities, that property has been used to commit an offence, or constitutes the proceeds of unlawful activities, **even where no criminal proceedings in respect of the relevant crimes have been instituted.** In this respect, chap 6 needs to be understood in contradistinction to chap 5 of the Act. **Chapter 6 is therefore focused, not on wrongdoers, but on property that has been used to commit an offence or which constitutes the proceeds of crime. The guilt or wrongdoing of the owners or possessors of property is, therefore, not primarily relevant to the proceedings.**"

[49] It has to be emphasised that the test in the forfeiture proceedings is different from the test in the criminal proceedings. In criminal proceedings it is trite that the test is beyond reasonable doubt. However, that test does not apply to forfeiture proceedings. This is so because forfeiture proceedings are civil proceedings in nature. In forfeiture proceedings as in any civil proceedings, as one would know, the test is proof on a balance of probabilities. In **National Director of Public Prosecutions v Swartz** 2005 (2) SACR SECLD 186 Leech J concluded that:

> "In forfeiture proceedings sufficient evidence must be adduced on a balance of probabilities in satisfaction of the requirements of s 48(1). Those requirements being that the property concerned must be shown to have been an instrumentality of an offence referred to in schedule 1 and/or that the property was representative of the proceeds of an unlawful activity."

See further **Mahomed**, *supra*.

[50] I want to comment briefly on the applicant's explanation for his delay. The preservation order was served on him on 9 October 2013. He was called upon to file notice of his intention to oppose the matter within 14 calendar days. His unimpeded procedural right to do so lapsed on 23 October 2013 – section 39(2) and paragraph 5 preservation order. The forfeiture order was granted against him on 5 December 2013. He was yet again allowed a period of 20 calendar days within which he could apply that the order be varied or rescinded. His unimpeded procedural right to do so also lapsed on 25 December 2013. See paragraph 3 forfeiture order.

[51] The current motion proceedings were initiated by the applicant on 2 February 2014, some 101 calendar days after his first procedurally automatic right had been extinguished by effluxion of time and 38 calendar days after his second procedurally automatic right had suffered the same fate.

[52] The essence of his explanation was that he was not gainfully employed. I really wondered whether indigence had anything to do with his default. Although he was unemployed and poor as he claimed, he owned a motor vehicle at the time of his arrest. He was privately driving to Kimberley at the time. Although he could not financially afford to travel by public transport to Bloemfontein in 101 days for a very important consultation with his legal representative, he could nonetheless afford to buy a cellphone – see anx "b2" to his supporting affidavit an email between his attorney, Mr Wouter

de Villiers and his advocate Mr P.W. Nel. A taxi fare would have been comparatively less than the price of a new cellphone or a tank of petrol. Therefore, it seemed to me that he never had a serious intention to oppose the forfeiture application. His explanation for such an inordinate delay failed to impress me.

[53] I have painstakingly considered the applicant's prospects of success in the main application if leave to appeal were granted. I have demonstrated that he has no good prospects of success at all. It was quite clear to me that he misconceived the law. He reckoned that because he was acquitted in the magistrate's court, the acquittal *ipso facto* entitled him to reclaim his property. The prospects of success are so poor that nothing else can be good enough to redeem them. It being the case, it will be a futile exercise to dwell on the remaining factors relevant to the inquiry.

[54] It is a matter of logic that if the prospects of success are as poor as in this matter, an explanation for the delay, however good, would not be sufficient to secure rescission – **Madinda**, *supra*. As I see it, no good cause was shown to rescind the forfeiture order. Consequently I am inclined to dismiss the rescission application on the merits.

[55] I have considered all the procedural irregularities the applicant complained of. There was virtually no substance in anyone of them. I would, therefore, also dismiss that leg of the rescission application.

[56] In the result, I make the following order:

56.1 The applicant's rescission application is dismissed.

56.2 The forfeiture order stands.

56.3 The applicant pays the costs.

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M. H. RAMPAI, AJP

On behalf of applicant:	Adv P.W. Nel Instructed by: Bloemfontein Justice Centre BLOEMFONTEIN
On behalf of respondent:	Adv K.J.A. Ntimutse Instructed by: State Attorney BLOEMFONTEIN

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