



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

Acting Sheriff of The High Court (Mahikeng) v Dada Motors Mahikeng CC t/a Dada Motors and Others

Case NO: 43929/2015

Date of Judgment: 27 March 2024

JUDGMENT SUMMARY

On 27 March 2024, Vally J handed down judgment in an interpleader application between the Acting Sheriff of the High Court (Mahikeng) as the applicant, and Dada Motors Mahikeng CC t/a Dada Motors as the first claimant and Peolwane Properties (Pty) Ltd as the second claimant.

The matter arose from the attempted execution by the Sheriff of a writ of execution issued by the second claimant against the execution debtor, Mr Lobelo, pursuant to a monetary judgment obtained against him. When the Sheriff attached Mr Lobelo's Bentley Continental GT vehicle, the first claimant claimed ownership of the vehicle, leading to an interpleader notice being issued in 2018.

The key issue was who owned the attached vehicle – the first claimant or Mr Lobelo. While the Uniform Rules envisage an expedited procedure to resolve such interpleader matters, the parties failed to pursue this, instead engaging in lengthy processes more akin to mainstream litigation over several years.

In 2023, the first claimant brought a belated “counterclaim” to rescind the writ of execution as invalid, over 6 years after it was issued, and for the contents of certain paragraphs in the second claimant’s interpleader affidavit be struck-off on the grounds that they are scandalous, vexatious and/or irrelevant. This application is brought five years after the notice was issued. The Court held that by its lengthy delay and conduct over the years in prosecuting its claim to the vehicle, the first claimant had renounced its right to challenge the validity of the writ.

The Court was critical of how the parties had allowed a simple interpleader process to become enormously protracted and complicated over 9 years. It ordered that the ownership issue between the parties now proceed before a judge in accordance with Rule 58(6) for expedited determination. The first claimant was ordered to pay the costs of its dismissed “counterclaim”.