

SOUTH AFRICAN RESERVE BANK v YWBN MUTUAL BANK

Legal Summary

Application, Recission granted, Contempt of court dismissed, Reasons.

The respondent obtained an urgent interim order against the applicant, directing it to register the change of its name within 48 hours. The respondent brought a recission application against the latter order. In counter, the respondent brought a contempt of court application against the applicant.

Court held that evidence produced by the applicant clearly showed that the service of process to the applicant was ineffective. Further, misrepresentation of facts in the founding affidavit of the respondent was found to have occurred. Lastly, the order obtained by the respondent was in truth granted upon wrong factual premises. Consequently, the application for recession had to succeed.

Regarding the contempt of court application, court held that the application was ill conceived and meritless. It seemed that it was only rooted in the degree of urgency for the name change need by the respondent. The application did not satisfy the test for contempt. Therefore, it fell to be dismissed.

The court declined to order punitive costs because both parties were found to have conducted themselves inappropriately in handling the application for the name change. However, the respondent was ordered to pay for the consequences of the application because it was found to be the cause of the sequence of litigation through its series of decisions and actions.