



HIGH COURT OF NAMIBIA MAIN DIVISION, WINDHOEK

JUDGMENT

Case no: A 238/2013

In the matter between:

ADRIAAN JACOBUS PIENAAR

APPELLANT

and

THE MINISTER OF HEALTH & SOCIAL SERVICES

FIRST RESPONDENT

THE MINISTER OF SAFETY & SECURITY

SECOND RESPONDENT

THE MEDICAL SUPERINTENDENT -

KATUTURA HOSPITAL

THIRD RESPONDENT

Neutral citation: *Pienaar v The Minister of Health & Social Services (A 238/2013)*
[2013] NAHCMD 232 (02 August 2013)

Coram: HOFF J

Heard: 25 July 2013

Delivered: 02 August 2013

ORDER

- (a) The application for leave to approach this court is dismissed.
- (b) No order as to costs is made.
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JUDGMENT

HOFF J:

[1] The applicant approached this court on an urgent basis with the following prayers:

1. That the Honourable Court grants applicant leave to approach the Honourable Court.
2. That the Honourable Court declare the discharge by an unknown doctor from Katutura Hospital as unlawful, unfair and unconstitutional.
3. That the Honourable Court orders applicant's readmission to Katutura Hospital to continue with treatment with immediate effect.

[2] The applicant in his affidavit in support of his application for leave to approach the court states that during the year 2012 he had approached the court on four occasions in which he had sought an order to be kept in a hospital and to receive medical treatment.

[3] The applicant further states that in the beginning of 2013 the Judge President (Damaseb JP) made an order that applicant may not bring another urgent application seeking the same relief without leave of the court first being obtained.

[4] The applicant in his affidavit in support of his application for leave to approach the court stated that he would 'verbally' address this court at the hearing of the matter 'about leave'.

[5] It is trite law that any applicant must make out a case in the founding affidavit for the relief being sought

[6] I may just add that the applicant in his affidavit mentions that he had been admitted by agreement between the parties to the Katutura State Hospital without mentioning who the parties were and failed to attach any supporting affidavit of any one of these other parties to his papers.

[7] A document purported to be a confirmatory affidavit by one Edwina Mensah-Husselmann (a Clinical Psychologist) has not been signed by her.

[8] The applicant in his affidavit in support of his application for leave to approach the court does not specifically deal with any reason why this court should grant him leave to approach this court. This is a fatal omission and the application stands to be dismissed for this reason.

[9] In the result the following orders are made:

- (a) The application for leave to approach this court is dismissed.
- (b) No order as to costs is made.

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E P B HOFF
Judge

APPEARANCES

APPLICANT :

In Person

FIRST & SECONDRRESPONDENTS:

Mr Ndlovu
Of Government Attorney, Windhoek