

REPUBLIC OF NAMIBIA



HIGH COURT OF NAMIBIA, MAIN DIVISION, WINDHOEK

REASONS

HC-MD-CIV-MOT-GEN-2018/00352

In the matter between:

VINCENZIO MAXIMILLIAN OLIVIER

PLAINTIFF

and

THE DEPUTY SHERIFF FOR THE DISTRICT OF
WINDHOEK

DEFENDANT

Neutral Citation: *Olivier v The Deputy Sheriff for the District of Windhoek*
(HC-MD-CIV-MOT-GEN-2018/00352) [2018] NAHCMD 360 (8 November
2018)

Coram: Masuku, J

Heard on: 17 October 2018

Delivered on: 8 November 2018

ORDER

1. The respondent's plea of *lis pendens* is hereby upheld in respect of the present application.

2. The applicant is directed to pursue its application under case number I 1784/2016 and is to provide steps he has taken to prosecute the said case within 14 days, failing which the respondent is granted leave to file an application, with papers duly amplified, for the dismissal of the said application.
3. The applicant is ordered to pay the costs of this application.
4. The matter is postponed to 6 December 2018 for a status hearing in relation to contents of paragraph 2 above.

REASONS FOR ORDER IN TERMS OF PRACTICE DIRECTIVE 61

MASUKU J:

1. It is not in dispute that the applicant instituted an application on urgency, under Case No. I 1784/2016, essentially seeking the same relief as in the present case, namely setting aside a sale in execution of the applicant's property. The applicant, as the *dominis litis*, did not, however, pursue this matter to bring it towards a hearing and thus finalisation.
2. He was fully aware that his vehicle had been attached for sale in satisfaction of an earlier judgment but did not seek to obtain an order setting the attachment aside. As a result, although not removed from his position, the vehicle remained under attachment.
3. Although the matter was dealt with on urgent basis before the first respondent could file her papers, the urgency alleged by the applicant is of his own making in the sense that he did not apply for the setting aside of the attachment and seeks to use same as a basis for urgency. The applicant is in view of his tardiness, hereby ordered to pay the costs, pending finalisation of the pending matter, which essentially raises the same issues between the parties in order to mark the court's disapproval of the applicant's conduct in neglecting to move the pending matter towards completion and not applying

at an earlier stage to have the attachment set aside when he was well aware it remains intact.

T S Masuku

Judge

APPEARANCES

APPLICANT: A Vaatz
of Andreas Vaatz & Partners, Windhoek

RESPONDENT: E Angula
of AngulaCo. Inc., Windhoek