

REPUBLIC OF NAMIBIA

HIGH COURT OF NAMIBIA  
JUDGMENT  
PRACTICE DIRECTION 61



MAIN DIVISION, WINDHOEK

<b>Case Title:</b>  LOUIS JACOBUS STEENKAMP PLAINTIFF  and  PLUMBCO PLUMBING (PTY) LTD DEFENDANT	<b>Case No:</b> HC-MD-CIV-ACT-DEL- 2022/02429
	<b>Division of Court:</b> HIGH COURT (MAIN DIVISION)
<b>Heard before:</b> HONOURABLE MR JUSTICE PARKER, ACTING	<b>Date of hearing:</b> 25 SEPTEMBER 2024
	<b>Delivered on:</b> 16 OCTOBER 2024
<b>Neutral citation:</b> <i>Steenkamp v Plumbco Plumbing (Pty) Ltd</i> (HC-MD-CIV-ACT-DEL-2022/02429) [2024] NAHCMD 602 (16 October 2024)	
<b>IT IS ORDERED THAT:</b>  1. The plaintiff's claim is dismissed.  2. There is no order as to costs.  3. The matter is finalized and removed from the roll.	
<b>Following below are the reasons for the above order:</b>	

PARKER AJ:

[1] The plaintiff instituted action in June 2022. We are in September 2024. We are still waiting for the plaintiff's witness statements which have not been forthcoming from the plaintiff who dragged the defendant to court.

[2] The instant matter is bedevilled by a chilling catalogue of persistent disobedience of court orders by the plaintiff, as Mr Rukambe, counsel for the defendant, reminded the court. The last straw of such orders that broke the camel's back, as it were, is the order of 31 July 2024. By that order, the plaintiff was ordered to file his expert report on or before 16 August 2024 – with the caveat that the court would not condone the plaintiff's disobedience of the order.

[3] Lo and behold, true to his character of disobeying court orders, the plaintiff failed to comply with the 31 July 2024 order. Mr Karsten, counsel for the plaintiff stated with respect, intrepidly and unabashedly that the late filing of the expert report 'was not to prejudice the defendant in any way ...' But it did. It prevented the matter from proceeding on to the next level of the holding of a pre-trial conference. The cumulative effect of the plaintiff's repeated and persistent disobedience of court orders has been to put a brake on the attainment of justice in the matter. That is the grave prejudice that has occasioned the defendant. It is important to note that the plaintiff's serious inaction and disobedience of the court orders cannot be cured by a costs order.

[4] Doubtless, the defendant is entitled to his constitutional right under article 12(1) of the Namibian Constitution to have the dispute adjudicated within a reasonable time. He is entitled also to a legal right under rule 1(1) of the rules of court to the imperative of 'just, speedy and inexpensive disposal'<sup>1</sup> of the matter. That being the case, it is immaterial as to the unsound and insufficient reason why both his aforesaid constitutional right and legal right have been violated by the plaintiff who – mind you, dragged the defendant to court.

[5] It should be said: This court would be setting a dangerous precedent, if on the facts of the case, the court did not sanction the plaintiff most severely for his unsound and insufficient explanation for his repeated and persistent disobedience of court orders. The plaintiff's conduct is indubitably inimical to the rule of law and due administration of justice.

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<sup>1</sup> Petrus T Damaseb *Court-managed Civil Procedure of the High Court of Namibia: Law, Procedure and Practice 1 ed (2020) at 144.*

[6] Based on these reasons, in my view, the appropriate order to make that meets the justice of the case is to apply rule 53(2)(c) of the rules of court. In the result, I order as follows:

1. The plaintiff's claim is dismissed.
2. There is no order as to costs.
3. The matter is finalized and removed from the roll.

<b>Judge's signature:</b>	<b>Note to the parties:</b>
	Not applicable.
<b>Counsel:</b>	
<b>PLAINTIFF</b>	<b>DEFENDANT</b>
L Karsten of Karsten-Lardelli Incorporated, Windhoek	U Rukambe of Fisher, Quarmby & Pfeifer, Windhoek