



HIGH COURT OF NAMIBIA MAIN DIVISION, WINDHOEK

EX-TEMPORE JUDGMENT

Case no: A 311/2012

In the matter between:

**TERRENCE NOBLE**

**APPLICANT**

and

**THE GOVERNMENT OF NAMIBIA**

**FIRST RESPONDENT**

**MAGISTRATE MATULICH**

**SECOND RESPONDENT**

**JAN OLIVIER & CO.**

**THIRD RESPONDENT**

**STANDARD BANK NAMIBIA LIMITED**

**FOURTH RESPONDENT**

**NAMIBIAN POLICE STATION COMMANDER**

**(WALVIS BAY)**

**FIFTH RESPONDENT**

**MINISTER OF SAFETY AND SECURITY**

**SIXTH RESPONDENT**

**DEPUTY-SHERIFF (WALVIS BAY)**

**SEVENTH RESPONDENT**

**REGISTRAR OF DEEDS**

**EIGHTH RESPONDENT**

**Neutral citation:** *Noble v The Government of Namibia* (A 311/2012) [2012]  
NAHCMD 104 (7 December 2012)

**Coram:** PARKER AJ

**Heard:** 7 December 2012

**Delivered:** 7 December 2012

**Flynote:** Practice – Applications and motions – Urgent applications – Applicant must satisfy the requirements of rule 6(12)(1)(b) of the rules of court for the matter to be heard on urgent basis – Furthermore, no urgency where urgency is self-created.

**Summary:** Practice – Applications and motions – Urgent applications – Applicant must satisfy the two requirements of rule 6(12)(12)(b) of the rules of court for the application to be heard as one of urgency – Court finding that applicant has failed to satisfy those requirements – Besides court holding that the urgency is self-created by the culpable remissness of applicant – Consequently, Court dismissing application with costs.

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### ORDER

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The application is struck from the roll with costs; which costs include costs of one instructing counsel and one instructed counsel

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### JUDGMENT

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PARKER AJ:

[1] In this matter the applicant comes to the court by what the applicant characterizes as urgent application, that is, the matter should be heard on urgent basis. The applicant appears in person; Ms Van der Westhuizen appears for the fourth respondent. There are no appearances for the rest of the respondents. They should therefore abide by the decision of the court.

[2] Urgent applications are governed by rule 6(12) of the rules of court; and rule 6(12)(b) provides that in every affidavit or petition filed in support of any application under para (a) of subrule (12) the applicant must set forth explicitly the

circumstances which he or she avers render the matter urgent and the reasons why he or she claims that he or she could not be afforded substantial redress at a hearing in due course. The rule entails two requirements: first, the circumstances relating to urgency which must be explicitly set out, and second, the reasons why an applicant could not be afforded substantial redress in due course.

[3] I have read the papers filed of record, including the applicant's heads of argument. I have considered the papers and oral submissions by the applicant and counsel. On the papers I find that the applicant has not satisfied the two requirements. He has not set out explicitly in his affidavit the circumstances which render the matter urgent. He has also not given reasons why he could be afforded substantial redress in due course. See *Salt and Another v Smith* 1990 NR 87 at 88A-C.

[4] More important, from the papers I find, as counsel submitted, that the applicant knew as far back February 2012 that he faced ejection from the property. He has waited for about nine months to rush to court and to pray the court to hear the matter on urgent basis.

[5] I am of the view that urgency in this application is self-created by the culpable remissness on the part of the applicant. Hence, I decline to condone his non-compliance with the rules of court or to hear this application as one of urgency. (See *Bergmann v Communal Bank of Namibia Ltd and Another* 2001 NR 45).

[6] Whereupon the application is struck from the roll with costs; which costs include costs of one instructing counsel and one instructed counsel.

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C Parker

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Acting Judge

APPEARANCES

APPLICANT: In Person

FOURTH RESPONDENT: C Van der Westhuizen  
Instructed by Etzold-Duvenhage, Windhoek