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Correction to inaccurate media reports on the judgement handed down yesterday (Thurs) in a matter between department and Kaulani Civils at the Gauteng North High Court, Pretoria....

Date: Friday, February 12, 2010

It is untrue that the Gauteng North High Court, Pretoria, yesterday (Thurs) dismissed with costs an application by the North West Department of Public Works, Roads and Transport brought against a road construction company, Kaulani Civils

This was but one of the interlocutory applications before the court in respect of this matter.

The above mentioned application by department was filed on January 11, 2010 requesting the court to set aside and rescind an order issued on November 26, 2009. That order, was granted to Kaulani Civils, whereby the provincial government was ordered to pay the company R64m within 48 hours.

The application to set aside this order is yet to be heard. It is still pending before the court and no date for the hearing has been set.

It is therefore inaccurate to report that the high court has dismissed with costs what it is yet to hear.

It cannot be true therefore, as some media reports suggest, that the court yesterday (Thurs) ordered that department ``pay the road construction company R64m for work done...”

The basis of an urgent application of which judgement was handed down on Thursday in the Gauteng North High Court in Pretoria was with regards to the setting aside of the attachment of government assets by Kaulani Civils.

We are of the view that the attachments did not comply with the prescripts of the Constitutional Court ruling arising out of the matter between Nyathi and the Minister of Justice and Constitutional Development.

On January 12, a day after the department filed an application, to rescind the judgement granted by Acting Judge Fabricius ordering the provincial government to pay Kaulani Civils an amount of R64m, the sheriff of the court attached certain assets of the state at

the department of Public Works, Roads and Transport including those at the Provincial Treasury.

We therefore sought an interdict against Kaulani Civils not to make attachments while the application for the rescission was still pending.

This is the application that was scheduled for hearing on Friday, February 05, 2010 but had to be postponed because more than half the documents were removed from the court file.

The file had to be re-constructed and was given to the judge on Saturday, February 06, to prepare for the 2pm hearing on Monday, February 08.

The handed judgement of this application described above yesterday (Thurs) and the reason given was that the judge was not bound by the decision of Constitutional Court on the matter and had a discretion to rely on the judgement handed down by Acting Judge Fabricius.

Meanwhile, other important court dates to note related to this case are:

- Thursday, February 18, 2010 (North West High Court, Mafikeng):
The department to defend an urgent application by a road construction company, Moseme Construction who have sued for R54m and asked the court to declare their appointment to be lawful.
- Thursday, February 25, 2010 (North West High Court, Mafikeng Urgent application by the department to obtain an eviction order against Kaulani Civils and Moseme Construction from various road construction sites.

I hope this is order in clarifying whatever inaccuracies may have crept into copy about what court application was dismissed yesterday.

END