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**IN THE SPECIAL TRIBUNAL ESTABLISHED IN TERMS OF SECTION 2 (1) OF THE SPECIAL INVESTIGATIONS UNIT AND SPECIAL TRIBUNALS ACT 74 OF 1996**

**JUDGMENT SUMMARY**

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| ***Special Investigating Unit v Czakhele Enterprise (Pty) Ltd and Others*** | |
| URL | https://lawlibrary.org.za/akn/za-kzn/judgment/zast/2023/14/eng@2023-11-03 |
| Citations | (KN04/2022) [2023] ZAST 14 |
| Date of judgment | 3 November 2023 |
| Keyword(s):[[1]](#footnote-1) | Application, strike out, compel, discovery, Special Tribunal, dispute, answering affidavit, notice, relief, prejudice, scandalous, vexatious |
| Summary[[2]](#footnote-2) | The Special Investigating Unit (**SIU**) had cited the twelfth respondent in a review application, seeking a variety of relief against various respondents including the twelfth respondent. The twelfth respondent submitted a notice in terms of Uniform Rule 35(12) (**Notice**), requesting the SIU to provide it with specified documents. The SIU delayed in responding to the Notice, and only partially complied with it. The twelfth respondent sought an order compelling the SIU to comply with the Notice, and also an order striking out certain material from the SIU’s answering affidavit in the application to compel.    The Special Tribunal (**Tribunal**) was asked to consider whether the application to compel ought to be granted. The Tribunal also considered whether the material which the twelfth respondent sought to have struck out were indeed scandalous, vexatious or irrelevant, or would cause the twelfth respondent prejudice. |
| Decision/ Judgment[[3]](#footnote-3) | The Tribunal granted the twelfth respondent’s application to compel SIU to discover certain documents as per the Notice, and partially granted the application to strike out certain material. |
| Basis of the decision[[4]](#footnote-4) | As the Tribunal Rules does not provide for applications to strike out, the Tribunal exercised the discretion granted to it in terms of Tribunal Rule 28(1), and invoked Uniform Rule 23(2) to strike out material. The Tribunal struck out the parts of the SIU’s answering affidavit which were unfounded, defamatory and irrelevant, as well as those which sought to influence the Tribunal’s decision or colour the Tribunal’s mind, or which constituted argument (which may only be included in heads of argument).  In terms of the application to compel, while the SIU had argued that, since it had amended its papers, the twelfth respondent’s application was rendered moot. The Tribunal disagreed and found that the SIU had failed to file its amended pages as required by Tribunal Rules, the dispute between the parties remained live and the twelfth respondent had made out a proper case for the relief it sought in the application to compel. It was thus granted. |
| Reported by  Date | African Legal Information Institute ([AfricanLII](https://africanlii.org/))  3 November 2023 |

1. Clarify the type of issues that come up in the case. [↑](#footnote-ref-1)
2. Summary of the facts, the main legal questions and/or grounds of appeal, and the court’s reasoning (between 150-250 words). [↑](#footnote-ref-2)
3. The ruling/judgment of the court, as given in the Order. [↑](#footnote-ref-3)
4. A 1-2 sentence summary of the basis of the decision (i.e. which legal rules were relied on). [↑](#footnote-ref-4)