



**PARLIAMENT**  
OF THE REPUBLIC OF SOUTH AFRICA

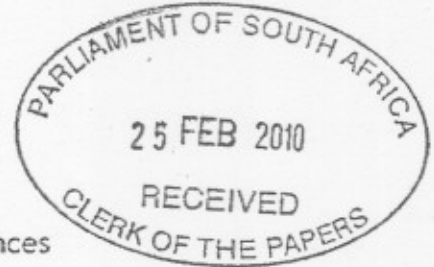
NATIONAL COUNCIL OF PROVINCES  
THE CHAIRPERSON

PO Box 15 Cape Town 8000 Republic of South Africa  
Tel: 27 (21) 403 2321/3126 Fax: 27 (21) 461 9460  
www.parliament.gov.za



600067013

**MEMORANDUM**



To : Chairperson of the National Council of Provinces  
From : Procedural Services Office / Clerk of Papers  
Date : 22 February 2010  
Re : Paper for referral and tabling

The following correspondence has been received from Mr Sewpersadh for tabling and referral:

- (a) Submission of petitions from Mr Sewpersadh. (*The full content of the correspondence to be tabled*).

To be referred to the Select Committee on Petitions and Member's Legislative Proposals for consideration and report.

APPROVED

Hon. M J Mahfangu, MP  
Chairperson: National Council of Provinces

## PETITION

17 January 2010

THE CHAIRPERSON OF THE NATIONAL COUNCIL OF PROVINCES  
MR. MHALANGU MP

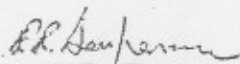
Parliament of RSA  
Cape Town

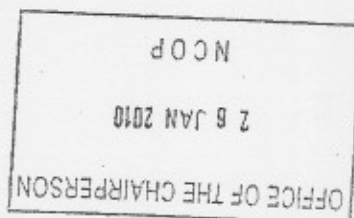
Dear Mr. Mhalangu

I Roy Sewpersadh, hereby petition the NCOP as stipulated in the Constitution of the Republic of South Africa to assist me with the following matter, documents attached

I am awaiting your response as we have suffered an injustice for more than five years

Thank you

  
RR Sewpersadh



*Ric*

29 October 2009

ATTENTION: THE DEPUTY MINISTER OF JUSTICE – PARLIAMENT

Sir,

Re: Case No 1056/04

We urgently request assistance in bringing about a petition in Parliament to remedy the actions of various parties concerned in an unlawful sequestration that subsisted for the past six years.

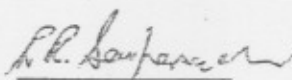
During February 2009, the President, Mr. Zuma, referred my matter to Dr Joe Phaahla, who has since disappeared.

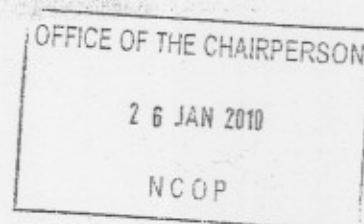
Minister Richard Baloyi, referred my matter to Professor Mollo, who is also silent on my matter.

We have been kept on hold by the Department of Justice for more than four years.

This is the reason that we have approached Parliament to assist us with a petition.

I thank you in anticipation.

  
RR Sewpersadh



26 June 2009

THE PRESIDENT OF THE REPUBLIC OF SOUTH AFRICA

Mr President, Mr. Jacob Zuma

Re: High Court Case 1056/04 – request for help

Thank you for the time taken to read this correspondence.

On 26 February 2009, it has been five years that I have been kept under an unlawful sequestration, although the matter had been set aside and the appeal discharged.

As a last resort, I am appealing to you, Sir, to intervene. During the last five years I have sought help from all the various governmental departments, from the Law Society, the Premier, the Human Rights Commission, the Minister of Justice (Mr. Labuschagne), the Portfolio Committee on Justice (Mz Sheila Camerer), the Public Protector, and even the President's Office, our local ANC office, Imaam Solomons, as well as other political parties, that is, the Independent Democrats and the Democratic Alliance, but to no avail.

We have even been misled by Attorneys, Advocates, the DPP's office and the NPA. It is clear that we have been denied justice in the Western Cape by the South African Police Services as well our previous Government.

During February 2004, I was placed under an unlawful order of sequestration that subsisted for nine months. During November 2004, the Rule *Nisi* was discharged in my favour. Standard Bank, the Applicant in the matter, did not bring a case of insolvency or even tried to prove insolvency, yet was granted an order against me even without a Master's report. The bank then brought an appeal against the judgment delivered by the Honourable Judge Dlodlo, which appeal was also discharged by a full bench during February 2006. I am of the view that the applicant and its agents should be criminally charged and held in contempt, as we were prevented from pursuing thirteen separate cases of fraud and theft, as instructed by Advocate Ketani of the Specialized Commercial Crime Unit. In other words, against two High Court Rulings, I was sequestered. Was it a cover up for the people who were responsible for this unlawful sequestration and for the theft of my estate and that of other parties?

These dockets were registered at our local SAPS, Grassy Park Police Station, and because it was a huge amount of work involved, the desk Sergeant told us to come back

OFFICE OF THE CHAIRPERSON

26 JAN 2010

NCOP



for our case numbers. When we went back to the police station, we were referred to Lady Supt Mong, who informed us that our dockets were seized by their state attorneys. We neither heard anything from them, nor were we allowed to have these cases registered again. *Is this justice?*

Our Constitution is our law, and these powerful entities violated all our constitutional rights. Eric, of the Human Rights Commission in Johannesburg stated, after studying my case, that every person that partook of this unlawful proceedings in the Cape High Court should be charged with perjury.

On 26 February 2004, all our assets which comprise coaches, tow trucks, cars, bakkies, as well as my workshop equipment and household furniture was taken from us by the then provisional trustee, Mz Eileen Fey, without warrants and with no sheriff's assistance.

To date, we have not been re-vested with our assets, which include those of my children and third parties, rendering me unable to adequately provide for my family, nor has our status been restored.

During 2008, I have brought an application of contempt against the parties concerned to the Cape High Court to have my estate returned to me. However, because we are lay people, and at this time financially ruined, the parties that was cited, objected to our papers in terms of Rule 30. The Honourable Judge Cleaver has requested me to amend my papers to comply with the court rules and to use the same set of papers, as he was of the opinion that it was a good set of papers for lay people, and has postponed the matter indefinitely.

The Director of Public Prosecutions referred my complaint of theft of my estate which included fraud and conspiracy, after failing to prosecute for two years and eight months, to the Specialized Commercial Crime Unit, who, after a year, promised to prosecute after the appointment of Mr. Zuma as President of South Africa, stating that he was awaiting the appointment of the new head of the NPA. This was during December 2008. This was about the time that I sent documentation of my case, via Mr. Skwacha, to Mr. Zuma at Luthuli House. Dr Joe Phaala was then appointed to process the documentation. I have also sent documentation to Minister Richard Baloyi, who referred the matter to his legal advisor, Professor Mollo.

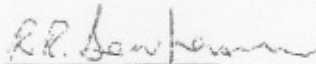
To my surprise, this afternoon I received a letter from the investigating officer, Inspector Botes from the Commercial Branch stating that Advocate Ketani would not be prosecuting anybody and that I should try the civil route. There were no reasons stated for not prosecuting. I was surprised to see this and 'phoned Advocate Ketani immediately. He said that it was not his decision, but that of his superiors, and he was also concerned that Inspector Botes sent the letter as it was not his duty to do so. Are we being denied justice with a case rife with fraud, theft and conspiracy of our estate by the SAPS and other high profile people?

Earlier during the year 2008, Mr. Botes told me that his commander was intimidating him from completing this docket as he stated that this case was the dirtiest and most injustice one that he had come across in his career at the commercial branch. I passed this information on to both Advocate Ketani and Lady Advocate Govender, as well as to the then Minister of Safety and Security, who referred the matter to the Minister in Cape Town. It has also been found that two busses that had been impounded at police stations, one in Steenberg, Cape and another in the Eastern Cape, had disappeared. I am in possession of a copy of the case docket, given to me by Adv Ketani to study the replies of the auctioneers on the whereabouts of my estate. It is fraught with lies and fraudulent information and does not contain my entire estate.

Attached are my court application with evidence and opposing papers and a letter from the Specialized Commercial Crime Unit and a layout of my course of action as a guide line. I also enclose a copy of the letter received from Inspector Botes.

I trust that I will receive some urgent assistance in my matter, and I afford you, as our new President, the opportunity to rectify this unlawful matter.

Thank you kindly



RR Sewpersadh

CC Minister of Justice, Mr. Jeff Radebe  
Minister Richard Baloyi

Office of the Director of Public Prosecutions



The National Prosecuting Authority of South Africa  
Igunya Jikelele Lobeshushisi boMzantsi Afrika  
Die Nasionale Vervolgingsgesag van Suid-Afrika

Ref No: 9/2/4/1-512/06  
Enquiries: Ms A Lotz

REGISTERED  
REGISTREER

CAPE TOWN

Tel: +27 21 487-7000  
Fax: +27 21 487-7167

115 Buitengracht  
Cape Town  
8000

Private Bag 9003  
Cape Town  
8000  
South Africa

[www.npa.gov.za](http://www.npa.gov.za)



Adv M Vassen  
Legal Advisor  
Standing Committee on Petitions  
and Members Legislation  
PO Box 15  
Cape Town  
8000

2010 -07- 0 5

Adv Vassen

PETITION BY MR RR SEWPERSADH

Your communication with Adv Govender refers. Herewith please find the report prepared by her.

My office has been dealing with Mr Sewpersadh since May 2004. Several members of my staff had consultations with him and his wife over the years.

During October 2007 Councillor Robinson and the Honourable Ms Patricia De Lille of the Independent Democrats requested a meeting with me to discuss this matter. Mr Sewpersadh and his wife were present at this meeting. During this meeting Mr Sewpersadh indicated that he had further information that will assist with the investigation. I subsequently requested investigation officer to obtain all relevant documentation from Mr Sewpersadh.

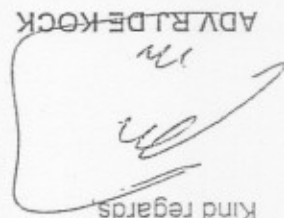
After several consultations with Mr Sewpersadh and perusal of the case docket I informed Ms De Lille that on 19 October 2007 I referred the matter to the Specialised Commercial Crime Unit of the NPA to guide the further investigation into the matter.

Justice in our society, so that people can live in freedom and security.



Please do not hesitate to contact me should you require any further information or clarity in the matter.

Kind regards



ADV. R. DE KOCK

DIRECTOR OF PUBLIC PROSECUTIONS  
WESTERN CAPE





The National Prosecuting Authority of South Africa  
Igunya Jikelele Labetshutshisi Bo Mzantsi Afrika  
Die Nasionale Vervolgingsgesag van Suid-Afrika

---

SPECIALISED COMMERCIAL CRIME UNIT  
WESTERN CAPE

REPORT TO THE DIRECTOR OF PUBLIC PROSECUTIONS  
WESTERN CAPE

TO : ADV RJ DE KOCK  
FROM : ADV M GOVENDER  
SUBJECT : PETITION BY MR RR SEWPERSADH  
DATE : 29 JUNE 2010

---

INTRODUCTION :

The decision was made by Adv DD Ketani not to prosecute any person in connection with this matter. Mr Sewpersadh was advised of the decision by the investigating officer, Insp Botes.

On 26 June 2009, Adv Ketani attempted to discuss the matter with Mr Sewpersadh to more fully explain the reasons. The reasons being that that a criminal case had not been made out and that the matter was of a civil nature. Mr Sewpersadh was not happy with the decision and advised Adv Ketani that he was not prepared to "waste any more time with the NPA"

Mr Sewpersadh then petitioned the Minister of Justice and the matter was forwarded to the SCCU for finalization. Attempts to communicate with Mr Sewpersadh have failed as he has indicated that he does not wish to have any further communication with this office. The matter was thus finalized.

#### BACKGROUND TO THE MATTER :

On 18 February 2004, Standard Bank, SA were granted a provisional sequestration order against Mr Sewpersadh in particular. He and his wife who was a co-respondent decided to oppose that final granting of the order.

Eileen Fey was appointed by the Master of the High Court as the trustee and pursuant to this instruction proceeded to have property attached and stored at Aucor South.

Mr Sewpersadh's daughter faxed a letter to her advising her that the attachment of the property was unlawful. On 24 May 2004, Fey corresponded with her requesting proof of ownership before the property complained off as not being part of the estate could be released. (A43).

On 18 November 2004, Dlodlo J ruled against Standard Bank, SA and refused to grant a final order of sequestration against Mr Sewpersadh. The application was refused as it was found that peremptory provisions of the Insolvency Act 24 of 1936 ("the Act") had not been complied with. The court found that the attorney who deposed to the affidavit indicating that he had complied with the provisions had failed to do so and accordingly was mala fide in supporting the application. The applicant, further, had not made out a case that Mr Sewperadh had either committed an act of insolvency or was de facto insolvent. A cost order was made in favour Mr Sewpersadh.

Fey, contacted Mr Sewpersadh's attorney to uplift the goods held in storage and advised Aucor South to release the goods (A34 and the statement of Mr Dibowitz) Mr Sewpersadh has refused uplift the goods as he is of the view that Aucor and Fey have committed the offence of theft against him by taking and retaining his goods unlawfully.

Standard Bank, SA appealed against the order of the court. The appeal was dismissed with costs. It must also be noted that the court found that there was no mala fides on the part of the attorney who deposed to the affidavit in the sequestration proceedings.

On 10 August 2005, Mr Sewpersadh laid a charge of theft of property at Grassy Park Police Station. CAS 162/8/2005 refers. It must be noted that the complaint indicates that Fey committed theft by unlawfully removing the property. The complaint subsequently was widened to include Aucor and is in respect of property which Sewpersadh alleges was taken but does not appear on the inventory provided to the Master's Office.

The matter was dealt with by Adv Bell at the DPP's office. The matter was transferred to the SCCU under a letter dated 19 October 2007. The matter was then allocated to Adv Ketani to deal with as Adv Bell had instructed that further investigations be conducted. Adv Bell expressed the view that Standard Bank and Fey could not be prosecuted and that the matter was of a civil nature.

These and other investigations requested were finalized. I might add that there were many meetings with Mr Sewpersadh to keep him apprised of the progress of the matter.

In May 2008, Mr Sewpersadh launched a civil application against Standard Bank, the NDPP, the police, Eileen Fey, and the Minister of Justice. He was represented by Adv Paul Trexdoux. The nature of this application was in respect of the loss occasioned as a result of Standard Bank's actions in applying for his sequestration.

Mr Sewpersadh sought an order to compel the DPP to proceed with the prosecution of the matter. There were now charges of fraud and perjury against Standard Bank as per this application. On 10 July 2008, the application against the NDPP was withdrawn.

On 26 August 2008 the application against the other respondents was eventually struck off the roll as a result of non-compliance with the Uniform Rules of the High Court. Mr Sewpersadh was given 30 days in order to re-institute proceedings properly. This has not been done to date.

The investigation continued and input was required from Mr Sewpersadh. He, however requested that we allow him time to finalize the civil proceedings. This process was eventually finalized whereupon Adv Ketani decided to decline to prosecute in the matter. Mr Sewpersadh has been advised regarding his rights with regard to civil proceedings and a private prosecution.

At no stage was Mr Sewpersadh given an undertaking that there would be a prosecution.

Mr Ketani provided me with a report wherein he dealt with the averments made by the complainant. I am satisfied that every effort has been made to ensure that this matter received the necessary attention and dedication. In fact, Adv Ketani on occasion went beyond the call of duty in attempting to accommodate and assist him.

Mr Sewpersadh has at all times been treated with due respect and courtesy even in circumstances where he in fact has abused his position as a complainant.

In this regard, he has requested us to issue letters to him regarding the status of the matter to be used in unrelated proceedings and on one occasion he insisted on a meeting being held which was attended by Councillor Robinson of the ID in an attempt to pressurize us to prosecute in the matter.

He has of late taken to conducting himself in an abusive manner towards the prosecutor and has made remarks in person and in the course of the petition which border on being defamatory.

#### REASONS FOR THE DECISION :

Adv Ketani in various reports dealt with the whether the State would be in a position to, firstly, prove theft against Fey and Aucor and secondly to prove the charges of fraud and perjury leveled against Standard Bank.

In summary he advises, and I concur, that the State will not be in a position to prove that Fey or Aucor acted unlawfully in attaching the property pursuant to the provisional order of sequestration being granted. The State, further, will not be able to prove that they had the intention to permanently deprive Mr Sewpersadh or any other person of ownership or control over their goods as he was advised to uplift the goods.

The investigating officer has confirmed that it is common cause that Mr Sewpersadh is aware of this. Mr Sewpersadh has advised the investigating officer and Adv Ketani that he will not uplift the goods as it has been damaged. He further indicated that there has been a theft and he wants all his goods back. This is a further negation of any proof of the mens rea required to succeed on a theft charge.

Aucor has incurred storage costs as a result of Mr Sewpersadh's stance and accordingly the sale of goods to defray the storage costs is a matter for civil litigation. Adv Bell and Adv Ketani have advised Mr Sewpersadh of his right of recourse in respect of section 28(3) of the Act.

The fraud and perjury charges are premised on the decision of Dlodlo, J. Mr Sewpersadh contends that Standard Bank lied that he was insolvent in order to obtain the provisional sequestration order. Dlodlo, J made certain obiter remarks regarding Mr Sewpersadh solvency but found that the requirements of the Act had not been satisfied. This is insufficient to found a conviction on perjury. The finding of mala fides was eventually overturned on appeal thus no reliance should be placed on Dlodlo J's remarks.

There is no evidence to support the contention that either fraud or perjury was perpetrated in bringing the application which it seems was sparked by the non-payment of installments on certain vehicles and overdrawn bank accounts.

#### RECOMMENDATIONS :

Mr Sewperadh must once again be of his rights of recourse through the Standing Committee.

Firstly, he does not have a right to compel the State to prosecute any party where a decision has been made not to prosecute. He must be advised that the State is dominus litus and at best the decision can be reviewed.

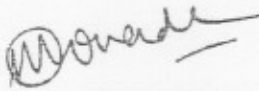
In this regard the decision not to prosecute for the reasons set out has been reviewed by two deputy directors of public prosecutions and Adv de Kock, the Director of Public Prosecutions.

The decision and the reasons for declining to prosecute remain. Mr Sewpersadh thus cannot through the courts or through the Parliamentary Standing Committee compel the State to institute a prosecution in circumstances where a decision has been made not to.

Mr Sewpersadh must be once again be advised that he has the right to apply for a nolle prosequi certificate and proceed with a private prosecution.

Mr Sewpersadh has a right of civil recourse in respect of the damage to his property and the defraying of storage costs. The criminal proceedings cannot be used as a means to obtain this redress.

I have investigated the complaint he has made against Adv Ketani found it to be without merit. The Standing Committee ought to be requested to advise Mr Sewpersadh to refrain from making any defamatory remarks against the State and Adv Ketani in particular.



---

ADV M GOVENDER  
DEPUTY DIRECTOR OF PUBLIC PROSECUTIONS  
REGIONAL HEAD  
SPECIALISED COMMERCIAL CRIME UNIT