

IN THE HIGH COURT OF SOUTH AFRICA

GAUTENG LOCAL DIVISION, JOHANNESBURG

CASE NO: 39617/2019

DATE: 06-09-2023

**DELETE WHICHEVER IS NOT APPLICABLE**

**(1) REPORTABLE: NO.**

**(2) OF INTEREST TO OTHER JUDGES: NO.**

**(3) REVISED.**

**DATE 6 November 2023**

**SIGNATURE**

10 In the matter between

LULAWAY HOLDINGS (PTY) LTD

Plaintiff

and

CITY OF EKURHULENI METROPOLITAN

MUNICIPALITY

Defendant

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**J U D G M E N T**

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**WANLESS AJ**

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This morning, being Wednesday the 6<sup>th</sup> of September 2023, this Court was advised that the Defendant was making an application for absolution from the instance at the end of the Plaintiff's case. Arising therefrom, this Court has heard full argument from both Counsel in this matter and has had the

opportunity to consider same. It is not the intention of this Court, in any manner whatsoever, to attempt to give a detailed judgment in respect of the ruling which this Court will now deliver, nor is it desirable, in the opinion of this Court, to attempt to do same. In that regard, this Court will again emphasise that it has had the opportunity not only to have the benefit of Counsels' argument, but also, in one instance, Heads of Argument (from the Plaintiff's Counsel) and also the benefit of being referred, by both Counsel, to  
10 the various authorities and principles which are applicable to applications of this nature.

Of course, the test to be applied to an application of this nature, that being absolution from the instance at the end of the Plaintiff's case, is fairly trite and, once again, will not be repeated simply for the purposes of burdening the record of these proceedings. Having considered all of the above and, in particular, having considered the evidence placed before this Court at this stage, this Court is satisfied that there is  
20 indeed evidence before this Court upon which this Court, applying its mind reasonably to such evidence, could or might (not should, or ought) find for the Plaintiff in this matter.

In the premises, this Court makes the following order:

1. The Defendant's application for absolution from the instance at the end of the Plaintiff's case is dismissed.

2. The Defendant is to pay the costs of the application as set out in paragraph 1 hereof.

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**WANLESS AJ**

**ACTING JUDGE OF THE HIGH COURT**

**DATE: 6 November 2023 (revised)**

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