

REPUBLIC OF SOUTH AFRICA



IN THE HIGH COURT OF SOUTH AFRICA
GAUTENG LOCAL DIVISION, JOHANNESBURG

(1) REPORTABLE: NO
(2) OF INTEREST TO OTHER JUDGES: NO
(3) REVISED: YES

2024/03/07

DATE

SIGNATURE

CASE NO: 2022/4024

In the matter between:

ESSENCE LADING CC

PLAINTIFF

and

INFINITI INSURANCE LIMITED

FIRST DEFENDANT

MEDITERRANEAN SHIPPING COMPANY

(PTY) LTD

SECOND DEFENDANT

JUDGMENT – APPLICATION FOR LEAVE TO APPEAL

D MARAIS AJ:

GENERAL OBSERVATIONS REGARDING THE APPLICATION FOR LEAVE TO APPEAL

- [1] This is an application for leave to appeal this court's judgment and order dated 9 June 2023, dismissing an application by the applicant in terms of Rule 28 for leave to effect an amendment, by changing the name of the second defendant from Mediterranean Shipping Company (Pty) Ltd ("MEDITERREANEAN") to MSC Logistics (Pty) Ltd ("MSC").
- [2] The application for leave to appeal is prolix, with the grounds of appeal set out in the form of arguments intertwined with each other. In this regard the applicant failed to comply with the requirement that the grounds of appeal be set out succinctly, in clear and unambiguous terms.¹ In particular, the applicant formulated the grounds of appeal by way of complex sentences containing subordinated conjunctions which, instead of drawing elucidating connections between ideas, mainly served to obfuscate the point the applicant was attempting to make.
- [3] Some points are not contained in complete sentences, and do not convey a conclusion. Some sentences do not make grammatical sense and is difficult to understand.

¹ *Songono v Minister of Law and Order* 1996 (4) SA 384 (E) at 385I-J; *Hing and Others v Road Accident Fund* 2014 (3) SA 350 (WCC) par 4 and footnote 3

- [4] Another material difficulty is that the applicant in certain respects refers to a specific issue and then misleadingly attempts to draw a relation between that issue and another issue or conclusion, where the two clearly bear no relation to each other, resulting in a logical fallacy. The applicant also attempted to rely on alleged evidence, which simply did not exist. This also resulted in the applicant often resorting to a *petitio principii*.
- [5] The same approach permeated the applicant's address to the court during the hearing of the main application and the present application, which rendered the address particularly unhelpful.
- [6] Against this background, the court shall use its best endeavours to understand the points raised by the applicant and shall attempt to distil the points which may have some substance.

THE GROUNDS OF APPEAL AND THE PROSPECTS OF SUCCESS ON APPEAL

- [7] Paragraph 1 of the grounds of appeal purports to set out findings which the applicant regards as correct, except that in paragraph 1.1 the applicant contends that, the court having correctly found that the error made by the applicant amounted to a misnomer², that should in itself have resulted in the application being upheld. There is no merit in this contention, as:

² Which the applicant consistently refers to as a "*misnoma*".

- [7.1] it is trite law that the test for the granting of an amendment is that the amendment should not cause prejudice that cannot be cured by an appropriate costs order or other order regarding procedure;
- [7.2] the facts of this matter clearly illustrate that even where the error in the citation of the second defendant can, in terms of the definition of a misnomer as set out in case law, be described as a misnomer, the correction of such misnomer by way of an amendment which has not been served on the party to be introduced, will result in incurable prejudice and an injustice; and
- [7.3] a finding that the error amounted to a misnomer is clearly not dispositive of the matter.
- [8] Paragraph 2 of the grounds of appeal contains generalised statements which need not be dealt with.
- [9] Paragraphs 3 to 6 of the grounds of appeal contain many inaccuracies and incorrect statements. No purpose will be served to forensically analyse these deficiencies, as it seems that the point the applicant attempts to be making is simply that the summons was served on MSC Logistics. This is of no consequence, as the court indeed found that there were indications that the summons was served on MCS Logistics, it was assumed that it was so served, and the judgment was based on such assumption in favour of the applicant.

[10] Paragraphs 7 to 9 of the grounds of appeal are of importance in this matter. It concerns the question whether an amendment introducing a party as a defendant in a matter is permissible without an application for joinder or application for amendment being served on the party being introduced. In this regard a relevant consideration may have been *in casu* whether MEDITERRANEAN's attorneys of record were also acting on behalf of MSC Logistics, with the possible result that MSC Logistics was effectively notified of the amendment and will not suffer any prejudice due to the amendment.

[11] In paragraph 8 several unfounded statements are made in support of the contention that the court erred by finding that MEDITERRANEAN's attorneys of record were not acting for MSC:

[11.1] The applicant seems to state that no evidence was placed before the court in the answering affidavit that MEDITERRANEAN's attorneys was not simultaneously acting for MSC Logistics. In this regard, the applicant relies on a *petitio principii*, in that it requires a rebuttal in the absence of positive evidence in its own founding affidavit regarding the question who the second defendant's attorneys were representing. In the founding affidavit the applicant's attorney stated that it was intended to cite MSC Logistics as the second defendant, as it appears from the annexures to the particulars of claim.³ The court found that to be correct. In paragraph 4.3 of the founding affidavit the attorney stated that MEDITERRANEAN previously

³ Paragraphs 4.1 to 4.2 of the founding affidavit. Certain incorrect statements are made in these paragraphs, which is not important to dissect here, and which have been dealt with in the main application.

represented MSC Logistics and is well acquainted with the dispute between the plaintiff and MSC Logistics. On that basis it was contended that it would be permissible to serve a notice / application for amendment, introducing MSC, on MEDITERRANEAN. Importantly, no allegation whatsoever was made that MEDITERRANEAN's attorneys were also representing MSC. Consequently, in the absence of such evidence, there was no duty on MEDITERRANEAN to place any rebutting evidence before the court in this regard. The applicant's contention in this regard is wholly untenable. The issue of the attorneys' capacity was simply not addressed at all in the founding affidavit by the applicant.

[11.2] The applicant stated that MSC had the opportunity to respond to the founding affidavit in which it was alleged that MSC was intended to be the defendant. This is simply untrue and wholly untenable, where neither the notice of amendment, nor the application for amendment was served on MSC. Service on MEDITERRANEAN's attorneys cannot be equated to service on MSC.

[12] The statement in paragraph 9 that the court erred by finding that MEDITERRANEAN's attorney did not represent MSC in this application has no merit. The fundamental point is that the applicant itself never alleged that MEDITERRANEAN's attorneys also represented MSC in these proceedings.

[13] The criticism expressed in paragraph 9 and 10 that the court placed more reliance on statements from the bar and allegedly impermissibly stepped into

the arena is unfounded and based on a complete misconception as to what transpired during the hearing. As indicated above, the applicant placed no evidence before the court that MEDITERRANEAN's attorneys also represented MSC in these proceedings. Consequently, the applicant in this regard failed to get out of the starting blocks, so to speak. Against this background, and somewhat concerned about the applicant's predicament, during argument I indicated that if MEDITERRANEAN's attorneys were, unbeknown to the court, also representing MSC an injustice can possibly result if the application is dismissed due to lack of service on MSC. I stated that I will not allow an injustice to be done as a result of procedural games. Consequently, for the benefit of the applicant, the court implored counsel for MEDITERRANEAN to take instructions and inform the court as to whether his attorneys were also acting for MCS. After an adjournment, counsel informed the court that his instructions were that his instructing attorneys were only acting for MEDITERRANEAN in these proceedings. This resulted in the applicant, having failed to make a start on this issue, remained on the starting line. The court made no positive factual finding based on counsel's advices to the court from the bar. Ultimately, the court found that there was no evidence that the attorneys were also representing MSC. It is regrettable that the applicant fails to understand that, to the extent that it can be said that the court descended into the arena, the court did so in an attempt to prevent an injustice being done to the applicant under circumstances where the applicant failed to place the alleged evidence before the court. In this regard I am firmly of the view that no other court will come to a different conclusion.

[14] The criticism set out in paragraph 11 relating to the *Mutsi* – case⁴ has no merit. As set out in the main judgment, in the *Mutsi* – case the application for amendment was served on the defendant which the applicant sought to introduce, who opposed the application and actively participated in the proceedings. Clearly no prejudice could have resulted from the granting of the amendment in those circumstances. The present matter differs entirely from the *Mutsi* – matter, in that in the present matter the notice and application for amendment was not served on MSC at all, resulting in irreparable prejudice. Once again, the finding that the error amounted to a misnomer, as defined, is not conclusive on the issue of prejudice. I am of the view that another court will not come to a different conclusion in this regard.

[15] Paragraph 12 seeks to introduce a completely irrelevant consideration, namely a weighing up of prejudice between the parties. On a proper analysis the applicant is contending that the prejudice it will suffer due to the dismissal of the application outweighs the prejudice that will be suffered by MSC in the granting of an order without notice to it and in its absence. This contention merely has to be stated to be rejected. No court will uphold such an argument.

[16] The point the applicant seems to make in paragraph 13, read with its heads of argument and argument in court, is that where the two parties, allegedly drew the battle lines in argument on the basis of whether the error was a mere misnomer and whether the amendment involved a substitution, the court was absolutely bound to decide the matter on that basis. It is trite law that the test

⁴ *Mutsi v Santam Versekeringsmaatskappy BK en 'n ander* 1963 (3) SA 11 (O)

for the granting of an amendment is whether the amendment will result in prejudice that cannot be cured by an appropriate cost order or other order regulating future proceedings. In terms of section 165(2) of the Constitution a judge is obliged to apply the law. A judge will never be bound by contentions by the parties which may have the effect of preventing the court from applying the law.⁵ The issue of prejudice was fully argued in any event, with the applicant contending, incorrectly, that the amendment would not prejudice MSC, because it is allegedly represented in court by MEDITERRANEAN's attorneys. In any event the issue was never as limited as suggested by the applicant, as MEDITERRANEAN, in its notice of objection, generally raised the issue that MSC was not a party to the proceedings and could not be made a party by processes not served on it, but on MEDITERANEAN. This objection was evidently correct, and the application was dismissed on that basis.

[17] Paragraph 14 is incomprehensible and impossible to deal with meaningfully. Allegations are made that parts of the main judgment are allegedly in conflict with other parts, which on a reading of the paragraph, is nonsensical.

[18] In paragraphs 15 – 17 the applicant, puzzlingly, seems to state that this court erred by holding that an amendment will only be granted if it does not result in prejudice to the other party which cannot be cured by an appropriate court order. It is trite that this is the test to be applied. In the main judgment the court found that the granting of an order, effectively against MSC, where MSC has not been notified of the process, will result in irreparable prejudice. The point raised by the applicant is without any merit.

⁵ See *Community Property Company (Pty) Ltd v Crowie Projects (Pty) Ltd* 2019 JDR 1970 (GJ) footnote 29

[19] In paragraph 18 the applicant contends that a costs order could have compensated for the perceived prejudice that will be suffered by MSC and that the court should not have dismissed the application. This *ipse dixit* falls to be rejected. No cost order can eliminate the prejudice suffered by a party against whom a court order is granted without prior notice and in its absence. As set out in the main judgment, such an order would not only be contrary to the general principles relating to amendments, but also unconstitutional. The order will also be a *brutum fulmen* which will not even assist the applicant.

[20] Regarding the points made in relation to the *Two Oceans – matter*⁶ in paragraph 19 and 20, I am not persuaded that I incorrectly applied the different sets of facts on the issue of prejudice. The facts of the *Two Oceans – matter* and the present matter differ fundamentally. In that case the correct defendant entered an appearance to defendant, filed a plea and received notice of the intended amendment correcting its citation. It differs fundamentally from the present matter where none of the steps in the amendment process was served on MSC, which would have resulted in irreparable prejudice if the amendment was granted. I am of the view that another court will not come to a different conclusion in this regard.

[21] The applicant states in paragraph 21 that the court erred in finding that the applicant used the same inappropriate procedure as the procedure in *MEC for Safety and Security, Eastern Cape v Mtokwana*⁷. This statement has no merit. Both in *Mtokwana* and the present matter, the plaintiff attempted to introduce a

⁶ *Embling and Another v Two Oceans Aquarium CC* 2000 (3) SA 691 (C)

⁷ 2010 (4) SA 628 SCA

party as a defendant by an amendment to the summons, without serving the application for amendment on the party to be introduced. The process applied was identical. The only difference between the two cases is that *in casu* the court accepted that the summons was originally served on the correct party (but which was erroneously not named as a defendant), whereas in the *Mtokwana* – matter the summons was not served on the correct defendant. This is a distinction without a consequence in this matter, as in the present matter the "correct" defendant, MSC, not having been named in the summons as the defendant, did not enter an appearance to defend (as it was entitled to do, not having been named as the defendant) and was not before the court when the plaintiff initiated the amendment. The critical point is that in both cases the notice of amendment and application was not served on the party to be introduced, which is contrary to the fundamental principles of our law.

[22] Paragraph 22 contains a variety of intertwined statements regarding the importance of the misnomer / substitution distinction in prescription and amendment cases. It fails to set out a ground of appeal succinctly or even discernibly. The discernible parts ignore clear Supreme Court of Appeal authority cited in the main judgment on the issue of prescription and distorts the court's judgment on the importance of the misnomer / substitution distinction in relation to amendments. The applicant seems to contend, once again, that the misnomer / substitution argument is dispositive of the matter, which is clearly not the case.

[23] Paragraphs 23 to 25 contain contentions which purportedly follows a line of argument. However, the one contention does not logically flow from the other,

which makes it difficult to deal with the points raised. In paragraph 25 the applicant states that the court correctly found that a misnomer carries a lesser risk of prejudice than the situation where there is a complete substitution.⁸ The applicant then jumps to the conclusion that the application should have succeeded for that reason. This is clearly an illogical conclusion, as the *possibility* that there may be less prejudice in the case of a misnomer, does not completely eliminate possible prejudice. It remains a factual question whether in the circumstances of the case there will be incurable prejudice or not. Once again, the applicant incorrectly relies on the misnomer point being dispositive of the matter.

[24] Paragraph 26 contains a prolix set of contentions, which seem to contend that it was an abuse of the process of court for MEDITERRANEAN to enter an appearance to defend, despite the fact that it was explicitly named as the second defendant. This contention falls to be rejected. The applicant also seems to suggest that MEDITERRANEAN entered an appearance with the *mala fide* purpose of creating a prescription defence for MSC. In this regard, the applicant simply takes no responsibility for the fact that through the fault of its own attorneys the second defendant was incorrectly cited and that MEDITERRANEAN, the named defendant, was entirely within its rights to defend the matter and raise an exception. Any risk of prescription was undoubtedly created by the applicant's attorneys' incorrect citation of the second defendant. The applicant states that it is not in the interest of justice that the doors of justice be closed to the applicant. In this regard, the applicant completely disregards the fact that at all times it was possible for the applicant

⁸ *Teccmed (Pty) Ltd and Others v Nissho Iwai Corporation and Another* 2011 (1) SA 35 (SCA) par 12

to bring an application for the joinder of MSC Logistics and to appropriately amend the pleadings thereafter. This option still exists. The applicant seems to have an underlying concern about prescription and seems to think that the granting of the amendment will somehow prevent prescription and is, therefore, pressing the amendment. The applicant seeks to solve this perceived problem, by attempting to effect an amendment, where the party to be introduced, MSC Logistics, is not before court, there is no evidence that it is represented in these proceedings and the amendment papers have not been served on it. Clearly an incurable injustice will result from such procedure, and the applicant proposes that such an injustice be done, for the sake of solving a self-created problem. This cannot be countenanced. Furthermore, the perception that the amendment will somehow solve the perceived prescription problem, is also a fallacy, as any order granted effectively against MSC Logistics, without notice to it, would be a *brutum fulmen*, and MSC would be entitled to argue that it is not bound by the order, and that the order is entirely ineffectual. This will certainly not result in the issues between the applicant and MSC Logistics being fully ventilated, as also contended by the applicant.

[25] In paragraph 27 the applicant contends that the court erred in finding that the circumstances of this case did not present the opportunity to make use of rule 28 to correct the mistake. The applicant fails to state why this finding was an error. The main judgment deals fully with this aspect, and I am of the view that a court of appeal will not come to a different conclusion on the facts of this matter.

[26] In paragraph 28 the applicant states that the court punished the applicant for the mistake, by refusing the amendment, allegedly contrary to accepted principles. This reckless statement is absolutely untrue. The main judgment does not contain a suggestion of any kind that the applicant should be punished for the mistake. Various findings were made in favour of the applicant and as indicated above, the court even attempted to assist the applicant, as explained above. The applicant attempted to make use of a procedure to effect the amendment that would result in incurable prejudice and a procedural injustice contrary to the Constitution. The application was dismissed due to application of the relevant legal principles, as set out in the main judgment.

[27] Paragraph 29 of the grounds of appeal deals with an aspect of the main judgment, relating to prescription, that was *obiter* and in respect of which the court expressly made no final and definitive judgment. This has no bearing on the applicant's prospects of success on appeal.

[28] In the premises, I am of the view that an appeal in this matter has no prospects of success.

IMPERMISSIBLE ATTEMPT BY APPLICANT TO PLACE FURTHER EVIDENCE BEFORE THE COURT DURING THE HEARING OF THE APPLICATION FOR LEAVE TO APPEAL

[29] On the day of the hearing of the application for leave to appeal, the applicant unilaterally uploaded certain documents onto the profile of matter on the court's online platform, CaseLines. During the hearing of the matter, counsel for the

applicant sought to rely on such evidence in support of the contention that MEDITERRANEAN's attorneys were also acting for MSC Logistics.

[30] In this regard, I made a ruling that such evidence, presented in the manner in which it was presented, is inadmissible and further I further ruled that I would have no regard to such evidence in deciding this matter.

[31] The reasons for this ruling are hereby given.

[32] In terms of s 19(b) of the Superior Courts Act 10 of 2013, a court of appeal is empowered to receive further evidence on appeal. According to the cases, the following criteria must be met. The general principle is that the power to admit evidence on appeal should be exercised sparingly. There must be a reasonably sufficient explanation why the evidence was not tendered earlier in the proceedings. The evidence 'must be weighty and material and presumably to be believed'.⁹

[33] No provision is made in the rules for a prospective appellant to apply to the court of first instance for leave to adduce further evidence on appeal. The reason for this is evidently that the court of first instance does not have the power to order the leading of further evidence on appeal; the prerogative is that of the court of appeal. However, there are examples where such applications were entertained by the courts of first instance, where such applications were brought simultaneously with an application for leave to appeal.¹⁰

⁹ *Pepkor Holdings Ltd and Others v AJVH Holdings (Pty) Ltd and Others* 2021 (5) SA 115 (SCA) par 49

¹⁰ See *Samancor Chrome Limited v North West Chrome Mining Pty Ltd and Others* 2022 JDR 0034 (SCA) and *Gumbo NO v Spruyt* 2020 JDR 1761 (GP).

[34] It would appear to me that the correct procedure in such a case is that the applicant should in an application for leave to appeal make reference to the new evidence it intends to lead on appeal and in such an instance the application for leave to appeal should be supported by a founding affidavit, setting out the proposed new evidence, dealing with the requirements for new evidence to be admitted on appeal, demonstrating that the new evidence will have a material effect on the outcome of the case, and that there are reasonable prospects that such evidence will be admitted by a court of appeal, mainly on the basis that the new evidence will materially influence the outcome of the appeal. If leave to appeal is granted, I am of the view that the appellant will still have to apply to the court of appeal for the admission of the new evidence.

[35] If an applicant in an application for leave to appeal incorporate an intimation that it would seek leave to adduce further evidence on appeal, the respondent will be entitled to deliver an answering affidavit in which it will be able to deal with the requirements for the leading of further evidence on appeal and can, if supported by the facts, place facts and considerations before the court of first instance why the court of appeal is unlikely to allow the further evidence, and why the possibility of further evidence should not influence the court in the application for leave to appeal. The applicant would, of course, be entitled to file a replying affidavit on this issue.

[36] In the present matter, the application for leave to appeal contains no indication that the applicant intended to adduce further evidence on appeal. Consequently, the application for leave to appeal was also not supported by a

founding affidavit dealing with any new evidence or dealing with the requirements for leading new evidence on appeal. Alternatively, there was no separate substantive application for the admission of further evidence on appeal by the applicant .

[37] Consequently, the respondent was not properly alerted to the intention to lead further evidence, nor was the respondent given any opportunity to respond by way of an answering affidavit.

[38] As indicated above, the applicant simply uploaded certain documents to the court record the morning of the hearing and sought to use these documents during the hearing of the matter.

[39] The procedure adopted by the applicant's attorneys in this regard is clearly impermissible. On that basis I refused to entertain such evidence.

OTHER COMPELLING REASONS WHY THE APPEAL SHOULD BE HEARD?

[40] The question arises as to whether there may be other compelling reasons why the appeal should be heard.

[41] In paragraph 25 of the main judgment, I commenced the exposition of the law by referring to certain constitutional considerations. The point of departure is that everyone has in terms of section 34 of the Constitution the right to have

any dispute that can be resolved by the application of law decided in a fair public hearing before a court. Section 173 provides that the High Court has the inherent power to protect and regulate its own process, and to develop the common law, considering the interests of justice. I, therefore, held that the court is constitutionally enjoined to approach this matter on the basis that fairness and justice must be promoted.

[42] Against this background I also held that in the correction of a mistake in the citation of a defendant (whether this mistake be described as a misnomer or the correction thereof a substitution) the essential question is how this mistake can be corrected in a manner which complies with the constitutional imperative of a fair and just process.

[43] Later in the judgment, I referred to the age-old principle relating to the granting of an amendment, namely that an amendment will be granted where such amendment will result in no prejudice to the other party. This has been qualified by the principle that prejudice will not prevent the granting of the amendment where the prejudice can be cured by a cost order or another order relating to future procedure. In other words, an amendment will be granted where the amendment will not result in incurable prejudice. Against the aforesaid constitutional background, I also used the term “incurable injustice” in my judgment, which was intended to mean the same as “incurable prejudice” or “prejudice which cannot be cured by a costs or other order”. The terms “incurable injustice” was also used in the same context in *East London Industrial Development Zone (SOC) Ltd v Wild Coat Abalone (Pty) Ltd and*

*another*¹¹ in which the main judgment in the present matter was cited with approval and followed.¹²

[44] The accepted test relating to amendments is entirely consistent with the constitutional imperative of justice and fairness in civil procedure. In this regard, no development of the common law was necessary, and the court did not develop the common law, or deviated from the traditional test. To the contrary, the application was dismissed, because the amendment failed to comply with the traditional test.

[45] Consequently, the fact that I sketched the general constitutional background to the present problem, without developing the common law, would not be a compelling reason for the matter to go on appeal.

[46] A further consideration is the approach in the main judgment towards the judgment in *Holdenstedt Farming v Cederberg Organic Buchu Growers (Pty) Ltd*¹³. In *Holdenstedt* the court held that a substitution can be effected in terms of the rule 28 amendment process, stating that this procedure has already received the approval of the High Court. In the main judgment in this matter, I remarked that if taken as a general proposition that substitutions may be effected by way of the rule 28 amendment procedure, I must respectfully disagree with it and that this statement must in my view be qualified. After analysing various judgments and scenarios, I then held that the abovementioned general statement in *Holdenstedt* must be qualified by the

¹¹ *East London Industrial Development Zone (SOC) Ltd v Wild Coat Abalone (Pty) Ltd and another* 2023 JDR 4598 (ECGEL)

¹² The two matters were distinguishable on the facts, rendering a different result.

¹³ *Holdenstedt Farming v Cederberg Organic Buchu Growers (Pty) Ltd* 2008 (2) SA 177 (C)

principle that no prejudice or injustice must result from the use of rule 28. Consequently, the “qualification” simply amounted to the application of the traditional test.

[47] It must also be pointed out that despite the slight disagreement with the *Holdenstedt* – judgment on the aforesaid point, this court agreed with the approach of the court in granting the amendment, because the court there, with respect, correctly held that the proposed amendments were served on a member of the partnership and that the partnership effectively had knowledge of the proposed amendment and would not be prejudiced by an amendment in terms of rule 28.¹⁴

[48] The minor difference with *Holdenstedt* similarly did not result in the development of the common law or a deviation from the general principle applicable to amendments. To the contrary, the main judgment reinforced the traditional test.

[49] Consequently, this aspect also does not constitute a compelling reason why the appeal should be heard.

[50] In the premises, I hold that there is no reasonable prospect that the applicant will be successful on appeal, nor is there any other compelling reason why the appeal should be heard.

[51] Consequently, the following order is made:

¹⁴ See par 47 and 48 of the main judgment.

“The plaintiff’s application for leave to appeal dated 3 July 2023 is dismissed with costs.”

DAWID MARAIS
ACTING JUDGE OF THE HIGH COURT
GAUTENG LOCAL DIVISION, JOHANNESBURG
7 March 2024

This judgment was handed down electronically by circulation to the parties' legal representatives by email and by being uploaded to CaseLines. The date of this judgment is deemed to be 7 March 2024.

Appearances:

Appearance for Plaintiff: ADV E PROPHY

Instructed by: TWALA ATTORNEYS

Appearance for Defendant: ADV R BEKKER

Instructed by: COX YEATS ATTORNEYS

Date of hearing: 6 December 2023

Date of Judgment: 7 March 2024