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IN THE HIGH COURT OF SOUTH AFRICA
(GAUTENG DIVISION, PRETORIA)



Case number: 24051/2014

Date: 6 August 2015

DELETE WHICHEVER IS NOT APPLICABLE

(1) REPORTABLE: ~~YES~~/NO

(2) OF INTEREST TO OTHERS JUDGES: ~~YES~~/NO

(3) REVISED

...6/8/2015.....

DATE

.....

SIGNATURE

In the matter between:

MALAN RONALD RASEBOTSA t/a
EVERON FILLING STATION
(Identity Number:)

APPLICANT

And

ENGEN PETROLEUM LIMITED
(Registration Number: 1989/003754/06)

RESPONDENT

JUDGMENT

PRETORIUS J ,

[1] This is an application for leave to appeal against the judgment of this court of 6 May 2015.08.05

[2] I have considered all the reasons for the application for leave to appeal and have studied the papers in the original application once more. I have dealt extensively in my judgment with all the arguments and facts by both parties. I do not intend repeating the facts and findings as set out in my judgment, but confirm these findings in relation to this application for leave to appeal.

3.1 The contention by the applicant that the report dealing with the measurement of the fuel, had not been placed before the court as an expert's report cannot be entertained. This was never raised during the application and has only now been raised in the application for leave to appeal. In any event, it relates to the outstanding amount for fuel, which is R338.15. The amount in respect of rent is R583 591.71 and the amount in respect of the levy is R213 982.08. I have once again considered the arguments, the papers and my judgment

3.2 I reiterate that there is no real factual dispute on the papers and therefor I am still convinced that the matter should not be referred to trial or for oral evidence.

[3] I cannot find that another court would reach another conclusion under these circumstances and I am of the opinion that the application will not succeed on appeal.

[4] I make the following order:

1. The application for leave to appeal is dismissed;

2. The applicant is ordered to pay the costs of the application for leave to appeal.

A handwritten signature in black ink, appearing to read 'C Pretorius', is written over a horizontal line.

Judge C Pretorius

Case number : 24051/2014

Application for leave to appeal

heard on : 5 August 2015

For the Applicant: : Adv. G Janse van Vuuren

Instructed by : Ruan Vorster Attorneys

For the Respondent : Adv. Clive van der Spuy

Instructed by : Lanham-Love Attorneys

Date of Judgment : 6 August 2015