

REPUBLIC OF SOUTH AFRICA



IN THE HIGH COURT OF SOUTH AFRICA
GAUTENG DIVISION, PRETORIA

Case Number: 2024-094818

(1)	REPORTABLE: NO
(2)	OF INTEREST TO OTHER JUDGES: NO
(3)	REVISED: NO
<i>13 January 2025</i>	
DATE	SIGNATURE

In the matter between:

NEDBANK LTD

Plaintiff

and

MATISIMELE ALBERT KANYANE

Defendant

JUDGMENT

JACOBS AJ

- [1] When this application for summary judgment was called before me in the unopposed motion court, the respondent appeared in person and informed me that he, as a layperson, could not present an affidavit to resist summary judgment. He, however, mentioned from the bar that the vehicle that is the subject of the litigation is in a state of disrepair at a workshop that has been there for some time and is in the process of being repaired at his expense (paid by his insurer) at the

instance of the plaintiff and that he has paid some instalments to the plaintiff while the vehicle has been under repair. What I have been told from the bar by the defendant has not been pleaded by him. (He is the author of his pleadings and was not represented by an attorney at the time).

[2] The chronology gleaned from the record shows that:

2.1. The defendant's special plea and plea over on the merits were served on the plaintiff on 25 October 2024 (CL:A38);

2.2. The application for summary judgment was served on the defendant by email on Wednesday, 8 January 2025 (CL:29), and by the Sheriff personally on 14 November 2024 (CL:32).

[3] Application for summary judgment is, therefore, properly before me. When the defendant informed me from the bar as summarised above and while comparing what he said to what is contained in his special plea and plea over on the merits and while mindful of the provisions of Rule 32, I hold the view that as his pleadings currently stand, what he told me if testified to on oath, would not "disclose fully the nature and grounds" of his pleaded defence and the material facts he relies on have not been pleaded at all. See Rule 32(3)(b).

[4] Under the circumstances of the case, I believe that to ensure that the plaintiff is not denied the opportunity to obtain summary judgment and the defendant is not denied the opportunity to present his defence and the material facts he relies on, the matter should be postponed on the terms set out in the order below, and time frames within which the defendant can exercise his rights should be provided.

[5] The following order is made:

- a. The application for summary judgment is postponed to the unopposed roll of 27 February 2025;
- b. The costs of 22 January 2025 are reserved;
- c. The defendant is afforded until 12h00 on Friday, 14 February 2025, to file an amended plea and an affidavit in terms of Rule 32(3)(b); and

- d. The Registrar and the plaintiff's attorney of record are directed to email a copy of this judgment to the defendant at his email address immediately and to upload proof of transmission of such email onto the Caselines platform.


JACOBS H F, AJ
JUDGE OF THE HIGH COURT
PRETORIA

FOR THE PLAINTIFF: Adv GJ Lötter
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FOR THE DEFENDANT: IN PERSON