

**REPUBLIC OF SOUTH AFRICA**



**IN THE HIGH COURT OF SOUTH AFRICA**

**GAUTENG LOCAL DIVISION JOHANNESBURG**

**CASE NO: A050244/2023**

**DOH: 31-07-2025**

- (1) REPORTABLE: **NO**  
(2) OF INTEREST TO OTHER JUDGES: **NO**  
(3) REVISED.

A handwritten signature in black ink, which appears to be "S. M. M.", is written over a black rectangular redaction box.

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SIGNATURE

31/07/2025  
DATE

**In the matter between:**

**KING PRICE INSURANCE COMPANY LIMITED**  
(Registration number: 2009/012496/06)

**Applicant/ Respondent**

**And**

**MATUBA TRANSPORT & LOGISTICS CC**  
*In Re: Appeal from Magistrate's Court*  
**MATUBA TRANSPORT & LOGISTICS CC**

**Respondent / Appellant**

**Appellant**

**And**

**KING PRICE INSURANCE COMPANY LIMITED**

**Respondent**

(Registration Number: 2009/012496/06)

*In re: Action proceedings in the Magistrates Court,  
Germiston SB-Division of Ekurhuleni Central- held  
At Germiston- Case No: 2750/2020*

**MATUBA TRANSPORT & LOGISTICS CC**

**Plaintiff**

**And**

**KP BARRON**

**First Defendant**

**MARTIN BOYLE**

**Second Defendant**

**KING PRICE INSURANCE COMPANY LIMITED**

**Third Defendant**

(Registration Number: 2019/012496/06)

This Judgment was handed down electronically and by circulation to the parties' legal representatives by way of email and shall be uploaded on caselines. The date for hand down is deemed to be on 31 July 2025.

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**JUDGMENT**

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**MALI J**

**et**

**NKOENYANE AJ**

- [1] On 31 July 2025 this court sitting as the Full Bench in the appeal by Matuba Transport Logistics CC ( Matuba) against King Price Insurance Company Limited ( King Price) granted an *ex temporae* judgment. King Price applied for the declaration for the lapsing of Matuba's appeal, consequently the dismissal of the appeal. The court granted the judgment as follows:
- [2] This is an application by the applicant (The Defendant in the main action) to declare the lapsing of the respondent's appeal (the Plaintiff in the main action).
- [3] The respondent filed a counter application for the reinstatement of the appeal.
- [4] It is common cause that the appeal has been delayed by a period of 149 days, a period way more than the 60 days as prescribed in the rules of this court.
- [5] The applicant's case is that the appeal has lapsed since the respondent did not take further steps after filing the notice to appeal, to prosecute the appeal.
- [6] The respondent's argument was mainly on the efforts it made to settle the matter ( appeal) after the judgment of the *court a quo* had been granted. Those efforts were not welcomed by the applicant. The respondent persuaded the court to take into account that it took some action. The prosecution of appeal is extremely delayed without any substantial reasons.
- [7] Having regard to the above, applicant's application must succeed.

### **Counter-Application**

- [8] Respondent filed a counter application for the reinstatement of the appeal. The affidavit which also served as an answering affidavit to the application for lapsing

of the appeal did not contain reasons or explanation for the delay in prosecuting the appeal.

[9] There are no submissions made pertaining to the prospects of success. The submissions are replete with efforts of the respondent in trying to settle the matter. This is after the judgment of the court aquo and also subsequent to the filing of the notice for leave to appeal. The respondent's approach has no legal basis.

[10] In essence, in the respondent's counter application the respondent did not apply for condonation and neither it made a substantive application referring to prospects of success as enjoined by the rules.

[11] In the result, the counter application must fail.

The following order is made:

**Order**

1. The respondent's appeal had lapsed.
2. The respondent's counter application for reinstatement of the appeal is dismissed.
3. The appeal is dismissed.
4. The respondent is ordered to pay the applicant's costs of both the applications as well as the appeal, on the scale as between attorney and client.



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**NP MALI**

Judge of the High Court

Johannesburg



I agree

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**N NKOENYANE**

Acting Judge of the High Court

Johannesburg

**Appearances:**

**Counsel for the Applicant**

Adv Johan Prinsloo

**Instructed by: Weavind & Weavind Attorneys, Notaries and Conveyances**

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**Date of Hearing: 31 July 2025**

**Date of Judgment: 31 July 2025**