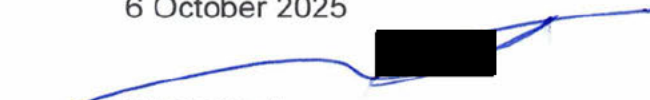


IN THE HIGH COURT OF SOUTH AFRICA
GAUTENG DIVISION, JOHANNESBURG

CASE NO: 2023-096348

1. Reportable: No
2. Of interest to other judges: No
3. Revised

6 October 2025


WRIGHT J

In the matter between:

PENDIGO TRADE and INVEST (Pty) LTD

APPLICANT

and

AVISHKAR HARILALL DUKHI

RESPONDENT

JUDGMENT – WRIGHT J

1. The applicant, Pendigo seeks summary judgment against the respondent, Mr Dukhi.
2. When summons was served, the particulars of claim were not annexed to the face of the summons. A short special plea, without a plea over, was filed. It sought the dismissal of the claim in the absence of particulars of claim.
3. Pendigo sought summary judgment. It did so on the basis of the short special plea.
4. Particulars of claim were filed. It is not clear to me whether this happened before or after the application for summary judgment was launched. In present circumstances, it is not necessary to go into this point.
5. Mr Dukhi filed a fuller plea, after the filing of the particulars of claim.
6. The present application for summary judgment is based squarely on the short special plea as originally filed. There is no reference in the affidavit in support of the summary judgment application to the plea as it presently stands.
7. The failure by the applicant to deal with the present plea falls foul of Rule 32(2)(b) which requires a plaintiff seeking judgment, among other things, to explain briefly why a defence as pleaded does not raise an issue for trial.

ORDER

1. The defendant is granted leave to defend.
2. The applicant is to pay the costs of the summary judgment application. Scale A applies.


HEARD : 6 October 2025

DELIVERED : 6 October 2025

APPEARANCES :

APPLICANT Adv JJ Du Randt

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RESPONDENT M Mulaudzi

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6-10-25