


**REPUBLIC OF SOUTH AFRICA**



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

**Case No.: 058154/2023**

(1)	REPORTABLE: NO
(2)	OF INTEREST TO OTHER JUDGES: NO
(3)	REVISED: NO
<u>21 May 2026</u>	
DATE	SIGNATURE

In the matter between:

**DZUNISANI ALDWORTH MBALATI**

**Applicant**

**and**

**FIRSTRAND BANK LIMITED T/A WESBANK**

**Respondent**

In re:

**FIRSTRAND BANK LIMITED T/A WESBANK**

**Plaintiff**

**and**

**DZUNISANI ALDWORTH MBALATI**

**Defendant**

---

## JUDGMENT

### ON APPLICATION FOR LEAVE TO APPEAL

---

Mahosi, J

[1] This is an application brought by the applicant for leave to appeal against the whole of this Court's judgment and order handed down on 22 September 2025 to the Full Court. The respondent opposes the application.

[2] The application is premised on the basis that this Court erred in finding that the respondent complied with sections 129 and 130 of the National Credit Act<sup>1</sup> (the NCA) regarding the delivery of the section 29 notice and the timing of the summons. The applicant further contends that this Court misapplied the principles laid down in *Kubyana v Standard Bank of South Africa Ltd* ("Kubyana")<sup>2</sup> and *Sebola and Another v Standard Bank of South Africa Ltd* ("Sebola")<sup>3</sup>. Furthermore, the applicant avers that this Court erred in finding that he failed to provide a reasonable explanation for his default and failed to establish a *bona fide* defence and asserts that it should have rescinded the default judgment under Rule 42(1)(a) on the basis that it was erroneously granted.

[3] The test for leave to appeal is trite and bears no repetition. Having had regard to both parties' submissions and arguments, this Court is satisfied that the applicant has failed to demonstrate that there is misdirection of fact or law in its judgment and that there is a reasonable prospect that another Court would come to a different conclusion. The applicant's arguments are, at best, a rehash of the contentions already fully considered and rejected in the rescission application. Therefore, this application ought to be dismissed.

[4] The respondent sought a punitive costs order on the scale between the attorney and the client. While the applicant's conduct in delaying proceedings and raising

---

<sup>1</sup> Act 34 of 2005, as amended.

<sup>2</sup> 2014 (3) SA 56 (CC)

<sup>3</sup> 2012 (5) SA 142 (CC)

unsubstantiated defences is dilatory, I do not consider it so egregious as to warrant a punitive order. Costs will follow the result on scale A.

Order

[5] Accordingly, the following order is made:

1. The application for leave to appeal is dismissed.
2. The applicant is to pay the respondent's costs of this application on Scale A.



---

**D. Mahosi**  
**Judge of the High Court of South Africa**  
**Gauteng Division, Johannesburg**

**Heard:** 21 May 2026

**Delivered:** This judgment was handed down electronically by circulation to the parties' representatives through email. The date for hand-down is deemed to be 21 May 2026.

Appearances

For the applicant: Mr. L. Marks of Larry Marks Attorneys

For the respondent: Advocate J. Govender

Instructed by: Smith Van Der Walt Incorporated Attorneys  
c/o Snaid and Morris Incorporated Attorneys