

THE REPUBLIC OF SOUTH AFRICA



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

Not Reportable

Case no: 013589/2025

In the matter between:

DOREEN NOMVULA KGWELE

APPLICANT

and

ABSA BANK LIMITED

RESPONDENT

Heard: 5 June 2026

Delivered: 5 June 2026

JUDGEMENT – APPLICATION FOR LEAVE TO APPEAL

Mooki J

- [1] The applicant seeks leave to appeal the order by the Court made on 29 April 2026. The grounds of appeal are that the Court erred in holding that the Bank followed all

procedures when effecting service; that the track and trace printout was insufficient for purposes of service required in section 129 because the applicant did not receive the documents, and that the Court erred in believing that the Pretoria North Post Office was working properly.

- [2] The notice does not indicate the procedures that were not followed, in relation to the first ground of appeal. The applicant, in the hearing, limited her address to one issue; namely that the Bank did not comply with the requirements for the sending of a section 129 notice.
- [3] The applicant accepted that the Bank could send the notice through the post office. She also submitted that she had, in the past, received notification from the post office for her to collect material. She submitted that she did not, in this instance, receive notification from the post office. It is in this regard that, according to the applicant, the Bank did not comply with the requirements for the sending of a section 129 notice.
- [4] The Bank referred to the decision in *Kubyana v Standard Bank of South Africa Ltd*¹ as support for having complied with the law regarding the sending of a section 129 notice.
- [5] There is nothing that suggests that the post office did not notify the applicant that a registered item was available for collection. The track and trace report, as detailed in the main judgement, show that such notification was sent. It is not a requirement that the Bank must show that the applicant was subjectively aware of the sending of the notice.²
- [6] Leave is granted only on a showing of reasonable prospects of success. The applicant has not met the test for the granting of leave to appeal.
- [7] I make the following order:

¹ [2014] ZACC 1

² Para 39

(1) The application is dismissed.

(2) The applicant is ordered to pay costs, on a party and party basis; the costs of counsel being on Scale B.


O MOOKI

JUDGE OF THE HIGH COURT
GAUTENG DIVISION, PRETORIA

Appearance:

Counsel for the Applicant:

Appearance in person

Counsel for the Respondent:

C L Markram-Jooste

Instructed by:

VZLR Inc.

Date heard:

5 June 2026

Date of judgement:

5 June 2026