

REPUBLIC OF SOUTH AFRICA

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

CASE NO: 45879/2016

In the matter between:

MOODLEY, NISHA.

Applicant

and

MOODLEY, NESAN

First Respondent

MOODLEY, PUROSHOTMAN

Second Respondent

CASE SUMMARY

Respondents have to advance a valid defense to an eviction order and such defence to entitle the respondents to remain in occupation as against the owner of the property. **Repudiation** is a conduct which fairly interpreted exhibits a deliberate and unequivocal intention no longer to be bound by the terms of an agreement. Whether the respondents' alleged assault on the applicant and causing her arrest is a breach of the oral agreement in the form of repudiation. Whether such repudiation is a *sine qua non* which entitles the applicant to an eviction order. **Homelessness**-Whether the respondents will be rendered homeless if an eviction order is granted. **Lis Pendens**- *lis alibi pendens*-the requirements for a successful plea of *lis pendens* are akin to those in a plea of *res judicata*.¹ To succeed in a plea of *lis pendens*, the parties are required to demonstrate to the Court that an application (being the second of the two applications) is between the same parties, about the same matter and on the same cause. **PRO BONO** entitled to costs. The misconception that *pro bono* attorneys and counsel are not entitled to costs

¹ *Caesarstone Sdot-Yam Ltd v The World of Marble and Granite 2000 CC 2013 (6) SA 499(J) (SCA)* .

should be obliterated. Once this misconception is so done away with, the lifelong and honourable quest for access to justice will become a reality. Impecunious litigants will have the services of enthusiastic and proficient legal representation readily available.