



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

(1) REPORTABLE: YES / NO	<input checked="" type="radio"/>
(2) OF INTEREST TO OTHER JUDGES: YES / NO	<input checked="" type="radio"/>
(3) REVISED	
11 Oct 2019	<i>[Signature]</i>
DATE	SIGNATURE

CASE No: **9267/2019**

In the matter between:

MOHAMED ADAM

1ST APPLICANT/ 2ND DEFENDANT

FREDERICK HERSELMAN LLOYD

2ND APPLICANT/3RD DEFENDANT

LPI HOLDINGS (PTY) LTD

3RD APPLICANT/ 4TH DEFENDANT

FIRST CLINIC PROPERTIES ONE LIMITED **4TH APPLICANT/ 5TH DEFENDANT**

and

NEDBANK LIMITED

RESPONDENT/PLAINTIFF

JUDGMENT: APPLICATION FOR LEAVE TO APPEAL

MTATI AJ

[1] This matter is brought before Court as an application for leave to appeal against an order of this Court delivered on 31st July 2019. This application appears to have been filed with the Registrar of this Court on 8 August 2019 and the application self was heard on 3rd October 2019.

The Respondent opposes the application for leave to appeal.

[2] The Applicants aver that this Court erred in not taking into account the last paragraph of paragraph 1 of the affidavit resisting summary judgment which reads as follows:

“In any event, I as a former director of the first respondent/defendant do not have access to the documents of the business rescue practitioner and accordingly cannot comment on what may be owing or not by the first respondent/defendant.”

[3] I have provided all my reasons at arriving at my conclusions in granting summary judgment against the First to the Fourth Applicant. In particular, it was not disputed that the First to the Fourth Applicant stood surety for Louis Pasteur Investment Limited which has since been under business rescue. The Applicants opposition to the application for a summary judgment was solely argued on the premise that Louis Pasteur Investment was under business rescue and not that they stood surety. The defence now raised that they did not have access to the documents of the business rescue practitioner does not, in my view, raise a *bona fide* defence to the summary judgment application.

[4] Having considered the application for leave to appeal, arguments for and against the application, I am not satisfied that another court might arrive at a different conclusion than that arrived at by this Court.

[4] As a result, I make the following order:

Order

Application for leave to appeal is dismissed with costs.

A handwritten signature in black ink, appearing to be 'MTATI AJ', is written over a horizontal line. The signature is stylized and cursive.

**ACTING JUDGE OF THE HIGH COURT,
GAUTENG DIVISION, PRETORIA**

Appearances:

**On behalf of the Plaintiff
Instructed Club Advocates Chambers**

Adv C. Richard

On behalf of the Defendant

Adv L. De Klerk

Appeal Heard on the 03rd October 2019

Judgment handed down on the 15th October 2019