**REPUBLIC OF SOUTH AFRICA**



**IN THE HIGH COURT OF SOUTH AFRICA**

**GAUTENG DIVISION, JOHANNESBURG**

**CASE NO.: 20955/2022**

1. REPORTABLE: YES.
2. OF INTEREST TO OTHER JUDGES: YES.
3. REVISED: NO.

**06/05/24 \_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_**

DATE SIGNATURE

In the matter between:

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**HAMZE TRADING (PTY) LTD** Applicant

and

**ALF’S TIPPERS CC** Respondent

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**SUMMARY**

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***Rescission of default judgment*** – application for rescission of judgment brought under rule 31(2)(b) *alternatively* at common law – the applicant raised various grounds upon which it contended service effected at its registered office was not valid – the applicant also contended that it had made out a case for a *bona fide* defence with *prima facie* some prospect of success.

***Good or sufficient cause*** – the principles governing good or sufficient cause under rule 31(2)(b) and at common law set out.

***Service*** – the rules on service under rule 4(1)(a)(v) considered and applied – their interplay in certain circumstances with rule 4(1)(a)(iv) considered and applied.

***Held*** – while service could have been achieved at the registered office of the applicant, despite the parties having agreed a *domicilium citandi et executandi* and despite their being no-one accessible at the registered office, the service that had been so effected was not effective service – nevertheless the applicant had failed to demonstrate a *bona fide* defence as required – what is more, the skeletal nature of and the false averments contained in the applicant’s affidavits precluded a finding that the applicant was pursuing the rescission *bona fide* – accordingly, the application for rescission dismissed.

***Costs*** – followed the result.

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**J J MEIRING**

**ACTING JUDGE OF THE HIGH COURT**

**JOHANNESBURG**