

A 563/14

**IN GAUTENG HIGH COURT, PRETORIA
(REPUBLIC OF SOUTH AFRICA)**

High Court Ref. No. **504/14**
Magistrate's Reference: **SMC 01/14**
Case No: **158/2013**
Date: ~~4 July 2014~~

8/8/2014

In the matter between : -

TIMOTHY MOEKETSI

Plaintiff

and

KGAUGELO SENAMELA

Defendant

JUDGMENT

JANSE VAN NIEUWENHUIZEN J

- [1] This is a review, in terms of the provisions of section 46(c) of the Small Claims Court Act, 61 of 1984, brought by Magistrate Nemaqwarani from Daveyton Magistrate Court.

FACTUAL BACKGROUND

- [2] The plaintiff issued summons in the court *a quo* against the defendant for payment of damages in an amount of R 5 447, 71. The plaintiff alleges that the defendant caused damage to his vehicle.

[3] Default judgment in the aforesaid amount, was granted in favour of the plaintiff on 27 June 2013.

[4] Upon perusal of the court file, Magistrate Nemakwarani established that two trial dates were allocated in the matter, to wit 25 June 2013 and 25 July 2013.

[5] Notwithstanding the aforesaid, default judgment was granted on 27 June 2013, in the absence of the defendant and without informing the defendant of the date.

GROUND FOR REVIEW


[6] Magistrate Nemakwarani submitted that a gross irregularity occurred when default judgment was granted on 27 June 2013 and pray that the order be reviewed and set aside.

I agree and propose the following order:

The default judgment granted in the court *a quo* on 27 June 2013 is reviewed and set aside.


M Janse van Nieuwenhuizen
Judge of the Gauteng High Court, South Africa

I agree.


M. J Teffo
Judge of the Gauteng High Court, South Africa