



attorneys, by letter dated 24 March

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2004 marked "NM1" attached to the Applicant's Replying Affidavit, sought counsel's opinion after the judgement was delivered and instructed counsel to draft a notice of appeal.

It was also argued by the Applicant's attorney that this court misdirected itself in that it delivered a final judgement during an application for absolution from the instance. The Respondent's attorney narrated to the court what transpired during the trial. He told the court that that mistake was cured by the attorneys abandoning that judgement by consensus and the court delivered a judgement dismissing the application for absolution from the instance. The Applicant's attorney did not challenge the version by the respondent's attorney of what transpired during the trial of the case.

It seems therefore that the procedural mistake is not in issue now as it was rectified. It cannot be allowed to be resuscitated and be made a ground for review.

In the light of the above observations it cannot be said that the Applicant has made out its case for an order to be made in terms of prayers 2.1, 2.2 and 2.3 of the Notice of Motion.

The application is therefore going to be dismissed with costs. That is the order that the court will make. The members agree.

NKOSINATHI NKONYANE

ACTING JUDGE - INDUSTRIAL COURT

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