

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

CASE NO: 32424/13

In the matter between:

ENGEN PETROLEUM LIMITED

Applicant

and

**WEBRREF TRADING NO. 31 CC t/a ELM STREET SERVICE
STATION and another**

Respondents

SUMMARY

S PILG, J

CIVIL PROCEDURE:

Separation of issues- Rule 33(4):

On analysis; separation would still require a preparatory issue to be answered, separated issue cannot be ring fenced from other issues and there are other issues which, having regard to the state of the pleadings, would be more capable of speedy resolution

Failing to plead over:

Impermissible for respondent to state in affidavit that it may supplement if points raised go against it. It must raise all its issues in its answering affidavit;

Incorporation of other proceedings by reference:

In casu the wholesale incorporation by reference was impermissible

Production of documents under rule 35(12)

Requirement of relevance must be satisfied. *Centre for Child Law v Hoërskool Fochville and another* 2016 (2) SA 121 (SCA) applied.

Relevance determined by whether the agreement relied upon is capable of bearing the meaning contended for by the respondent. It was not- principles relating to interpretation of contracts applied