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IN THE HIGH COURT OF SOUTH AFRICA

GAUTENG DIVISION, PRETORIA

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CASE NO.:

2023-081806

Before the Honourable DU PLESSIS AJ

Date: 22 August 2023

In the *ex parte* application of:

ZEENATH KAJEE N.O.

Applicant

[in her capacity as the provisional liquidator of Habib
Overseas Bank Limited (in provisional liquidation)]

Master's Reference: T1374/2023]



FOR AN ORDER IN TERMS OF SECTION 386 (5) OF THE COMPANIES ACT 61 OF 1973 (AS AMENDED) AS READ WITH ITEM 9 OF SCHEDULE 5 TO THE COMPANIES ACT 71 OF 2008 (AS AMENDED)

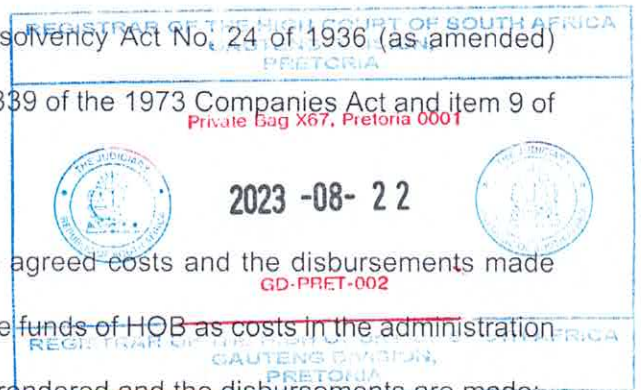
COURT ORDER

Having heard counsel for the applicant and having read the documents filed of record, it is ordered that:

1. This application be heard on an urgent and *ex parte* basis.
2. The applicant is authorised to bring this application in terms of section 386(5) of the Companies Act No. 61 of 1973 (as amended) ("1973 Companies Act") as read with item 9 of schedule 5 to the Companies Act No. 71 of 2008 (as amended) ("2008 Companies Act").

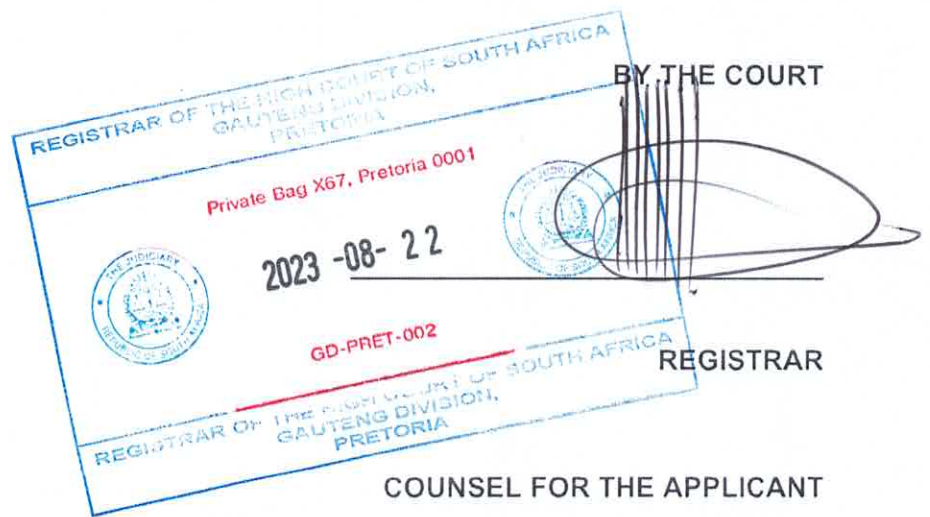
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3. The applicant is authorised, in terms of section 386(5) of the 1973 Companies Act, as read with item 9 of schedule 5 to the 2008 Companies Act, to exercise the following powers in relation to the administration of Habib Overseas Bank Limited (in provisional liquidation) ("HOB"):
- 3.1. to institute or defend any actions or legal proceedings as may be necessary;
 - 3.2. to obtain legal advice on any question of law affecting the administration of HOB and to engage the services of attorneys and counsel in connection with any matter arising out of or related to the affairs of HOB;
 - 3.3. to agree with such attorneys and/or counsel on the tariff or scale of fees to be charged by and paid to such attorneys and/or counsel for the rendering of services to HOB and to conclude written agreements with attorneys and/or counsel in the form contemplated in section 73(2) of the Insolvency Act No. 24 of 1936 (as amended) ("Insolvency Act"), as read with section 339 of the 1973 Companies Act and item 9 of schedule 5 to the 2008 Companies Act;
 - 3.4. to pay the attorneys and/or counsel the agreed costs and the disbursements made by the attorneys and/or counsel out of the funds of HOB as costs in the administration of HOB as and when such services are rendered and the disbursements are made;
 - 3.5. to exercise *mutatis mutandis* the same power conferred upon a trustee under section 37(1) of the Insolvency Act;
 - 3.6. to appoint consultants and service providers as the applicant deems necessary for the administration of HOB in provisional liquidation, the costs of which will be costs in the administration of HOB; and
 - 3.7. to appoint personal security, to the extent that it becomes necessary, the costs of which will be costs in the administration of HOB.
4. The actions of the applicants to date hereof are ratified and confirmed, in accordance with



section 386(5) of the 1973 Companies Act, as read with item 9 of schedule 5 to the 2008 Companies Act.

5. The applicant is granted leave to approach this Court on the papers filed herein, as may be supplemented, to seek further powers should same become necessary.
6. The costs of this application are to be treated as a cost in the winding-up of HOB on a scale as between attorney and client.



JE SMIT

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Instructed by

Edward Nathan Sonnenbergs Inc.

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