

SOUTH AFRICA / JUDGMENT

Bela Bela Local Municipality and Another v Dikala Plant Hire CC (95187/2015) [2017] ZAGPPHC 413 (3 April 2017) [2017] ZAGPPHC 413

COURT

North Gauteng High Court, Pretoria

BEFORE

G. T. Avvakoumides

CASE / FILE NUMBER

95187/2015

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THE HIGH COURT OF SOUTH

AFRICA

GAUTENG DIVISION,

PRETORIA

CASE

NUMBER: 95187 / 2015

DATE

OF HEARING: 6 FEBRUARY 2017

DATE

OF JUDGMENT: 3 APRIL 2017

In

the matter between:

BELA
BELA LOCAL
MUNICIPALITY First
Applicant
BALIMI
BARUI TRADING (PTY)
LTD Second
Applicant
and
DIKALA
PLANT HIRE
CC Respondent

JUDGMENT

AVVAKOUMIDES. AJ

- [1] This is an application by both applicants for leave to appeal against my judgment dated 9 November 2016, more particularly the orders at paragraphs 20.1 to 20.5 thereof.
- [2] I have considered the arguments by counsel for the applicants and the respondent. Having done so, I am of the opinion that there are reasonable prospects of success on appeal.
- [3] Insofar as the submission made by the second respondent at paragraph 3 of its application for leave to appeal is concerned, such submission does not set out any ground for appeal and, in my view, was inappropriately made.
- [4] Whether there is justification for the employment of senior counsel is not an issue for me to decide at this stage. Counsel for the Applicants and the Respondent parties are aware of the decision on this point in *The City of Johannesburg Metropolitan Municipality v The Chairman of the Valuation Appeal Board for the City of Johannesburg and Connaught Properties (Pty) Ltd* 2014 ZASCA 5 (12 March 2014) wherein Leach JA stated that "matter is deserving of the employment of senior counsel (which it is clearly is) it would be wrong for a court to somehow attempt to fetter that discretion" , meaning the taxing master's discretion. I consider myself bound to this decision despite being of the view that the matter was complex enough to employ the services of senior counsel.
- [5] Consequently the following order is made:
- [5.1] Leave to appeal to the full court of the Gauteng Division of the High Court, Pretoria, is granted.
- [5.2] Costs of the application shall be costs in the appeal.

G. T. AWAKOUMIDES

ACTING JUDGE OF THE HIGH COURT

DATE: 3 APRIL 2017

Representation for Respondent:

Counsel: S. G. Wagener S. C.

Instructed by: Geyser Van Rooyen Attorneys

Representation for First Applicant:

Counsel: M. M. Rip SC

Instructed by: Moloto Attorneys

Representation for Second Applicant:

Counsel: M. G. D. Maritz SC

Instructed by: Van Heerden and Krugel Attorneys

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