

SOUTH AFRICA / JUDGMENT

Bhawuli v Mthombeni (2019/37016) [2019] ZAGPJHC 530 (13 December 2019)

[2019] ZAGPJHC 530

COURT

South Gauteng High Court, Johannesburg

BEFORE

F Dippenaar

CASE / FILE NUMBER

2019/37016

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REPUBLIC OF SOUTH

AFRICA

IN THE HIGH COURT OF

SOUTH AFRICA

GAUTENG

LOCAL DIVISION, JOHANNESBURG

CASE

NUMBER: 2019/37016

In

the matter between:

BHAWULI

KHOLEKA

Applicant

and

MTHOMBENI

MZUNGULU

ROY

Respondent

JUDGMENT

DIPPENAAR J:

- [1] The applicant Kholeka Bhawuli applies for leave against the whole of my judgment and order, given on 05 November 2019.

- [2] My judgment is comprehensive and I stand by the reasons set out therein. The application was dismissed on the basis that the applicant did not meet the requirements of a favourable balance of convenience and the absence of a suitable alternative remedy.
- [3] I have considered the grounds listed in the applicant's application for leave to appeal as well as counsel's extensive arguments for and against the granting of leave to appeal.
- [4] It is common cause that the applicant obtained an interim protection order under the Domestic Violence Act 116 of 1998 ("the Act") in her favour prior to launching the proceedings in the High Court, and that these proceedings are currently pending in the magistrates court. Central to this application is the applicant's contention that there is a reasonable prospect that another court would find that the Act does not provide an effective remedy as the applicant must report any breach of a protection order to the South African Police Services and is thus dependent on their evaluation of whether a protection order has been breached.
- [5] Considering the cost effective mechanisms including the hearing of oral evidence and the wide powers afforded to a court under the Act. I am not persuaded that another court would find that there is merit in the applicant's argument that the Act does not provide a suitable remedy.
- [6] I am of the opinion that the appeal would not have a reasonable prospect of success and that there is not some other compelling reason why the appeal should be contemplated in s17
- (1) of the Superior Courts Act 10 of 2013.
- [7] In the result, the following order is made:

The application for leave to appeal is dismissed with costs.

F DIPPENAAR

JUDGE OF THE HIGH COURT JOHANNESBURG

APPEARANCES

DATE OF HEARING

: 06 December 2019

DATE OF JUDGMENT

: 13 December 2019

APPLICANT'S COUNSEL

: Adv F Memani

APPLICANT'S ATTORNEYS

: Wakaba & Partners Inc

Mr M Makaba

RESPONDENTS' COUNSEL

: Adv L Segal

RESPONDENTS' ATTORNEYS

: Werksmans attorneys

Mr Abilatyi

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