

SOUTH AFRICA / JUDGMENT

Gumbo NO and Others v Spruyt and Others (71879/17; 68899/2018) [2020] ZAGPPHC 418 (6 August 2020) [2020] ZAGPPHC 418

COURT

North Gauteng High Court, Pretoria

BEFORE

C J van der Westhuizen

CASE / FILE NUMBER

71879/17; 68899/2018

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IN THE HIGH

COURT OF SOUTH AFRICA

GAUTENG

DIVISION, PRETORIA

CASE NO.:

71879/17

68899/2018

In the matter

between:

SG GUMBO NO
GUY GUMBO ATTORNEYS
RAMAPUPUTLA ATTORNEYS INC
Mr
RAMAPUPUTLA
First Applicant
Second Applicant
Third Applicant
Fourth Applicant
and
STEPHAN SPRUYT
SPRUYT INC
RAND MUTUAL ASSURANCE
THE MINISTER OF POLICE
THE
MASTER OF THE HIGH COURT PRETORIA
First Respondent
Second Respondent
Third Respondent
Fourth Respondent

Fifth
Respondent

JUDGMENT

VAN DER WESTHUIZEN, J

[1] The applicants apply for leave to appeal against the whole of my judgment and order

granted on 12 November 2019, which was a combined judgment in matters under case numbers 718719/17 and 68899/2017 that were heard together.

[2] The first matter under case number 718719/17 was initially brought by the present first and second respondents as an urgent application in which an interim order was granted by agreement between the parties. The matter before me was the return day of the interim order. The third respondent was subsequently joined as a third party. The second matter under case number 68899/17 was brought by the first respondent in the urgent matter, namely SG Gumbo NO. The present fourth and fifth respondents did not participate in the proceedings before me, although they were parties joined in the urgent application. Neither the fourth nor fifth respondent participated in this application for leave to appeal.

[3] In view of the National Lock Down due to the COVID-19 pandemic and the subsequent directives issued by the Chief Justice and the Judge President of this Division in respect of the manner in which matters are to be dealt with in the present state of Lock Down, the application for leave to appeal was agreed to be dealt with on the papers filed. The parties were allowed to submit additional representations.

[4] In the main applications, I dealt with both matters and delivered a combined

judgment.

It is against that judgment and order that the present applicants seek leave to appeal.

[5] A whole host of grounds for leave to appeal have been raised in the application that was supplemented in the heads of argument filed on behalf of the applicants. Subsequent to the heads of argument being filed, an

application was launched by the applicants for leave to supplement the grounds of appeal. Those additional grounds were allegedly

premised upon my conduct during the hearing of the matter as is allegedly evidenced in the transcript of that hearing.

[6] In my judgment in the main matters, I comprehensively dealt with all the issues raised in the initial application for leave to appeal. I do not intend to deal with each and every ground raised in the initial application for leave to appeal.

[7] In respect of the additional grounds sought to be raised, none of those, in my view add anything or take the matter any further, and constitute a baseless personal attack on my integrity and are of no substance. Furthermore, it is not indicated by the applicants were I had misdirected myself and thus came to a wrong finding. The alleged additional grounds merely constitute a clutching at straws by a disgruntled party who was unsuccessful. The application to expand the grounds raised in the application for leave to appeal cannot succeed. It was opposed by the present first, second and third respondents.

[8] The present first, second and third respondents take the point that the fourth applicant, Mr Ramapuputla, the key person in the third applicant, is the driving force behind the application for leave to appeal and in fact the “true” applicant in the second matter. His participation allegedly stemmed from his personal views and personal

interest in the proceedings. It is further pointed out by the present first, second and third respondents that no authority to act on behalf of the other applicants, in particular the first and second applicants in this application for leave to appeal, has been provided. For that reason alone, it is submitted that the application for leave to appeal should be dismissed.

[9] The applicants have not chosen to counter the raised issue of authority, and consequently the allegations raised in that regard stand uncontested.

[10] I have, on receiving the application for leave to appeal and after receiving the respective heads of argument, carefully considered my judgment and gave it much reflection.

[11] As recorded earlier, I dealt with the issues now raised comprehensively in my judgment under scrutiny. It is not necessary to deal with each ground of appeal again. Suffice to state, that I am not convinced, nor satisfied that another court would on the probabilities come to a different conclusion than I have come to in my judgment.

[12] The applicants have further filed an application to introduce further evidence on appeal. The

respondents oppose that application. The alleged further and new evidence relates mainly to issues specifically dealt with in my judgment. The findings in my judgment dealt with those issues that were lacking in the evidence presented by the applicants. Despite the respondents pertinently challenging the applicants in the main applications in respect of the issues now sought to be introduced, the applicants refrained or refused to introduce those issues. It is trite that an application for leave to introduce further and/or new evidence on appeal is not there for the asking and that convincing reasons be provided for not leading the relevant evidence earlier. None of the requirements for leave to adduce further and/or new evidence of appeal has been shown to have been met by the applicants. That application stands to be dismissed.

[13] It follows that the application for leave to appeal on any of the grounds raised, either in the initial application for leave to appeal, or in the application to supplement those grounds, cannot succeed. It is to be noted that the fourth applicant's personal interest in the matters bears no consideration and the failure to prove the required authority is detrimental to the granting of the application for leave to appeal.

I grant the following order:

1. The application for leave to expand the grounds for leave to appeal is dismissed.
2. Condonation is granted to the first and second respondents in respect of the late filing of the opposing affidavit in the application for leave to adduce further and/or new evidence.
3. The application for leave to introduce new evidence on appeal is dismissed.
4. The application for leave to appeal in matters numbers 71879/17 and 68899/17 is dismissed.
5. The applicants are to pay the costs of the first, second and third respondent in the applications to expand the grounds of appeal, for leave to adduce further and/or new evidence on appeal and for leave to appeal, such costs to include the costs of senior counsel where applicable.

C J VAN DER WESTHUIZEN

JUDGE OF THE HIGH COURT

Date Heard:

Decided on the papers during National Lockdown

On behalf of Applicants: Mr Ramapuputla

Instructed by:

Ramapuputla Attorneys

On behalf of First and Second Respondents: TALL Potgieter SC

Instructed by:

Maritz Smith Inc

On behalf of Third Respondent:

WM Keeny

Instructed by:

Van Velden-Duffy Inc

Judgment

handed down:

6 August 2020

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Prepared on 13 October 2026 · Esheria