

SOUTH AFRICA / JUDGMENT

Jamieson v Sabingo (99/17038)

[2000] ZAGPHC 10 (13 April 2000)

[2000] ZAGPHC 10**COURT**

High Courts - Gauteng

BEFORE

Willis

CASE / FILE NUMBER

99/17038

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Source record**NOT****REPORTABLE****IN****THE HIGH COURT OF SOUTH AFRICA****(WITWATERSRAND****LOCAL DIVISION)****JOHANNESBURG****CASE****NO: 99/17038****DATE:13****APRIL 2000****In****Che ex parte application
of:**JAMIESON,NEIL.....Applicant
In**the matter between:**JAMIESON,
NEIL.....
Plaintiff
and
SABINGO,
AMINDO
CESAR.....
Defendant

JUDGMENT**RE APPLICATION FOR LEAVE TO APPEAL**

WILLIS J: Immediately after I had given my judgment and order in the application earlier today, Mr Venter, who appears for the plaintiff,

made an application for leave to appeal. For the reasons which appear in my judgment and indeed from a reading of the case of *American Flag, plc v Great*

African T-Shirt Corporation CC, 2000 (1) SA 356 (W) is clear that the law is far from settled with regard to this issue. It seems to me that there are indeed reasonable prospects of success in an appeal. Even if my order given today is to be regarded as interlocutory, I am satisfied that questions such as the convenience of the parties and the interests of justice generally warrant the granting of leave to appeal at this stage.

Indeed, if I understood Mr Pincus, who appears for the defendant, correctly, he accepts that this is a matter deserving of an appeal. In my view the questions of law and of fact are of such a nature that the appeal requires the attention of the Supreme Court of Appeal.

In terms of section 20(5) of the Supreme Court Act, I have a broad discretion to grant leave to appeal subject to the conditions.

Furthermore, Rule 49(11) of the Rules of Court also gives the court powers to suspend the order previously given or to make other directions.

I indicated to the parties during the course of argument that I would be amenable to attaching conditions to the appeal to protect the interests of both parties and to be fair to them both.

Accordingly the following order is made:

1. Leave to appeal against my judgment and order given in this matter earlier today is granted.
2. It is directed that the appeal be heard by the Supreme Court of Appeal.
3. My order granted in the judgment this morning is suspended pending the decision of the Supreme Court of Appeal.
4. The costs of this application are to be costs in the appeal.

ON BEHALF OF PLAINTIFF : ADV P J VENTER

Instructed by :Scholtz & Botha

ON BEHALF OF DEFENDANT ; ADV M PINCUS

Instructed by :Biccari, Bollo & Mariano

DATE OF JUDGMENT:13 APRIL 2000

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