

SOUTH AFRICA / JUDGMENT

Nesane and Another v Pollock N.O and Others (Leave to Appeal) (56445/2020) [2025] ZAGPPHC 144 (13 February 2025) [2025] ZAGPPHC 144

COURT

North Gauteng High Court, Pretoria

BEFORE

John Richard Meaden

CASE / FILE NUMBER

56445/2020

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REPUBLIC OF SOUTH AFRICA

IN THE HIGH COURT OF SOUTH AFRICA

GAUTENG DIVISION, PRETORIA

CASE NO: 56445/2020

1. REPORTABLE: YES/ NO
2. OF INTEREST TO OTHER JUDGES: YES/NO
3. REVISED: YES / NO

DATE: 13 February 2025

SIGNATURE OF JUDGE:

In the matter between:

TSHIANNE ONICA NESANE

First Applicant

AZIMBO LODGE CLOSE CORPORATION

Second Applicant

and

RICHARD KEAY POLLOCK N.O

First Respondent

NURJEHAN ABDOOL GAFAAR OMAR N.O

Second Respondent

OSCAR JABULANI SITHOLE N.O

Third

Respondent

IGNATIUS CLEMENT MIKATEKO SHIRILELE N.O

Fourth Respondent

MICHELLE SCHUTTE N.O

Fifth Respondent

(In their capacities as the Joint liquidators of the Sixth Respondent)

VELE INVESTMENTS (PTY) LIMITED (IN LIQUIDATION)

Sixth Respondent

JUDGMENT – LEAVE TO APPEAL

[1] The applicants applied for Leave to Appeal to the Supreme Court of Appeal , alternatively full of the bench of the Gauteng Division, Pretoria against the order and ensuing judgment handed down by this Court on 04 November 2024.

[2] For ease of reference, the parties are referred to as in the main application.

[3] Full reasons were provided in the judgement that I compiled on 18 December 2024 and I do not propose to furnish further reasons, the applicants in their Leave to Appeal argued on 13 February 2025, then not substantively advancing their propositions further.

[4] Sec 17 (1) of the Superior Court Act No 10 of 2023 (“The Act”) provides:

“Leave to Appeal may only be given where the judges concerned are of the opinion that:

(i) The Appeal would have a reasonable prospect of success; or

(ii) there is some compelling reason why the Appeal should be heard, including conflicting judgements on the matter under consideration”.

[5] Sec 17(1)(a) of the Act provides a stringent test wherein the Court must be satisfied that the appeal would have a reasonable prospect of success. (See *Mont Chevaux Trust (IT2012/28) v Tine Goosen*. Unreported, LCC Case No LCC 14R/2014, dated 3 November 2014, *Notshokovu v S*, unreported, SCA Case N0 157/15 dated 07 September 2016 and *Erasmus Superior Court Practice*. DE Van Loggenberg, Vol Part A, R512, 2020 A2-55.

[6] In my opinion the applicants have not met this threshold.

- [7] Further, there are no conflicting judgments which would have to be considered by the Superior Court of Appeal in terms of Sec (17(1)(a)(ii) of the Act and the public interest will not be served by an appeal in respect of which there is no legal uncertainty.
- [8] In the circumstances, I am not persuaded that another Court will come to a different conclusion. The applicants' grounds of appeal and reasons therefore not justifying leave to appeal being granted and there is no compelling reasons to grant leave in terms of Sec 17(1)(a) of the Act.

ORDER

Having read the papers and heard counsel, it is ordered that:

- 1 The application for leave to appeal the order and judgment dated 04 November 2024 is dismissed; and
2. The applicants are ordered to pay the respondents' costs of the application on a party and party scale, and at scale B for legal counsel.

JOHN RICHARD MEADEN

ACTING JUDGE OF THE HIGH COURT OF SOUTH AFRICA

GAUTENG DIVISION

PRETORIA

Appearances

For Applicants: Adv. G Lebethe Instructed by: Maphoso Mokoena Attorneys Inc. For
Respondents: Adv. K Iles Instructed by: Werksmans Attorneys Date of Hearing: 13 February 2025
Date of Judgment: 13 February 2025

This judgment was handed down electronically by circulation to the parties' and or parties' representatives by email and by being uploaded to CaseLines. The date and time for the hand down is deemed to be 11h00 on this 13th day of February 2025.

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Prepared on 9 October 2026 · Esheria