

SOUTH AFRICA / JUDGMENT

Sampson v Wesbank a Division of Firststrand Bank Limited (2021/11300) [2023] ZAGPJHC 77 (1 February 2023) [2023] ZAGPJHC 77

COURT

South Gauteng High Court, Johannesburg

BEFORE

K Hofmeyr

CASE / FILE NUMBER

2021/11300

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IN

THE HIGH COURT OF SOUTH AFRICA

GAUTENG

DIVISION, JOHANNESBURG

CASE

NO: 2021/11300

(1)

REPORTABLE:

YES/NO

(2)

OF INTEREST TO OTHER JUDGES: YES/NO

(3)

REVISED:

NO

DATE:

01/02/2022

In

the matter between :

DARREN

SAMPSON

Applicant for leave to appeal

and

WESBANK

Respondent

(A

DIVISION OF FIRSTRAND BANK LIMITED)

JUDGMENT

HOFMEYR AJ:

1 This is an application for leave to appeal. It arises from an application that came before me in unopposed court on 13 September

2022. In the matter, Wesbank (a division of FirstRand Bank Limited) brought an application to compel the respondent in a summary judgment application to file heads of argument.

2 The respondent, Mr Darren Sampson, appeared on the day and made various representations about another application – a default judgment application in which he was the applicant for default judgment. The matter was not on my roll for the day. Despite my enquiries, Mr Sampson was unable to direct me to a notice of set down for the default judgment application for the week of 13 September 2022.

3 Ms Sampson provided no reasons why the application requiring him to file heads of argument should not be granted. I therefore granted the order sought.

4 Mr Sampson has since brought an application for leave to appeal against that order.

5 The application for leave to appeal was heard on 31 January 2023.

6 During the course of addressing me on his application for leave to appeal, Mr Sampson made two things clear:

6.1 He had already complied with the order I granted on 13 September 2022 and filed heads of argument in the summary judgment application.

6.2 His grievances related to other matters including:

6.2.1 unpaid costs awards that he said he has obtained against his erstwhile employer – the office of the State Attorney;

6.2.2 the fact that his default judgment application had not been properly set down or allocated to a roll in the week of 13 September 2022;

6.2.3 general complaints about the manner in which various litigation has been handled.

7 During the course of the hearing, I asked Mr Sampson to address me specifically on the question why it would be appropriate for me to grant leave to appeal against an order to file heads of argument with which he had already complied. He had no answer to this question.

8 Just as we were nearing the end of the hearing, however, Mr Samson's connection to the virtual platform for the hearing broke down and the Registrar's efforts to contact him telephonically were to no avail.

9 As a result, I adjourned the hearing on the following basis:

9.1 I reserved judgment in the leave to appeal application but indicated that it would be handed down during the course of 1 February 2023.

9.2 I asked the Registrar to send an email to Mr Sampson directing that if he wished to make any further written submissions on the leave to appeal application, he should do so before close of business on 31 January 2023.

9.3 I would then consider those submissions and hand down judgment on the leave to appeal application.

10 Mr Sampson took up the opportunity to address me with further written submissions. He provided a screen shot of what appears to be a draft notice of set down bearing the date of 13 September 2022 for the default judgment application. I have not, however, been directed to a notice of set down issued by the court, nor have I been shown a notice of set down for the default judgment application that was served on Wesbank.

11 However, even if there was such a notice, it is not relevant to the application for leave to appeal before me. That application concerns the order I granted on 13 September 2022 requiring Mr Sampson to file heads of argument in the summary judgment application.

12 The question before me is whether leave to appeal should be granted against that order.

13 The application for leave to appeal against that order was opposed by Wesbank. However, Wesbank does not seek costs in the event that it is successful in opposing the application for leave to appeal.

14 There are no prospects of success for Mr Sampson's appeal. The order was correctly granted because it was an interlocutory matter requiring the filing of heads of argument, in the summary judgment application, that were out of time. Mr Sampson provided me with no relevant or cogent reasons why he should not be required to file heads of argument in that application. In addition, Mr Sampson has already complied with the order granted. So the appeal can have no practical effect or result.

15 I therefore order as follows:

"1. The application for leave to appeal is dismissed.

2. There is no order as to costs."

K HOFMEYR

Acting Judge of the High Court,

Gauteng Local Division, Johannesburg

Delivered: This judgment was prepared and authored by the Judge whose name is reflected and is handed down electronically by circulation to the Parties/their legal representatives by email and by uploading it to the electronic file of this matter on CaseLines. The date for hand-down is deemed to be 01 February 2023

Matter heard on: 31 January 2023

Judgment

delivered on: 1 February 2023

APPEARANCES:

For the applicant for leave to appeal: In person

For the respondent in the application for

leave to appeal: Ms.

Meyer

Instructed by: CF

van Coller Inc

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