

SOUTH AFRICA / JUDGMENT

Sibidi and Others v Van As and Others (B2/2024) [2025] ZAGPPHC 466 (14 April 2025)

[2025] ZAGPPHC 466

COURT

North Gauteng High Court, Pretoria

BEFORE

Strijdom

CASE / FILE NUMBER

B2/2024

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IN

THE HIGH COURT OF SOUTH AFRICA

(Gauteng Division,
Pretoria)

Case no: B2/2024

Judgment Reserved: 11

APRIL 2025

Judgment handed down: 14

APRIL 2025

(1)

REPORTABLE: YES / NO

(2)

OF INTEREST TO OTHER JUDGES: YES / NO

(3)

REVISED.

DATE: 14 APRIL 2025

SIGNATURE

In the matter between:

NICKY
SIBIDI
First Applicant
ANNAH MOSELLA MOTAUNG
Second Applicant
FRANK
MANYISI
Third
Applicant
PHUMZA
MAWATHI ALONI
Fourth Applicant
PHILA
SIPELE
Fifth
Applicant
SIYABONGA
NTIYA
Sixth
Applicant
AND
FREDERIK
JOHANNES VAN AS
First Respondent
FREDERIK
JOHANNES VAN AS N.O
Second Respondent
(in
his capacity as duly authorised trustee of the
FRIKKIE
VAN AS FAMILY TRUST – IT: 2979/09)
FERDINAND
SMARTENRYK DEVENIER N.O
Third Respondent
OGOERION
CONSTRUCTION CC
Fourth Respondent

JUDGMENT

STRIJDOM, J

1. In this matter the applicants apply for leave to appeal to the Full Court of this division, alternatively to the Supreme Court of Appeal against the whole of my judgment and order dated 24 February 2025, bringing into operation the suspended sentence imposed by Lenyai AJ (as he then was) on 19 March 2024 and for the applicants to be committed to direct imprisonment for 6 months and a warrant to be issued by the Registrar to such effect.

2. The application for leave to appeal is opposed by the respondents.
3. The applicant's grounds for leave to appeal can be summarized as follows:
 - 3.1 the Court erred in not upholding the point in limine relating to the lack of authority and locus standi on the part of the trustees of the Frikkie van As Family Trust
 - 3.2 the Court erred in not taking into consideration that the fourth respondent lacked authority to have participated in the application and erred in not dismissing the fourth respondent's participation in the proceedings.
 - 3.3 the Court erred in concluding that applicants should have made use of the procedure provided by Rule 7(1) of the Uniform Rules of Court when they were not challenging the respondent's attorney's authority to act in this case which challenge is not regulated by the said Rule.
 - 3.4 the Court erred by not accepting that there was no willful conduct on the part of the applicants to have violated the Court order.
 - 3.5 the Court erred by putting the suspended sentence into operation and by not suspending same.
4. Section 17(1)(a) of the Superior Courts Act 10 of 2013 provides that leave to appeal may only be granted where the Judge or Judges concerned are of the opinion that the appeal would have a reasonable prospect of success; or if there is some compelling reason why the appeal should be heard including conflicting judgments on the matter under consideration.
5. In respect of the application for leave to appeal against the whole of my judgment, the applicants raised as grounds a challenge to every finding made in the judgment. The argument on this aspect was essentially a re-presentation of that which was advanced during the main application, and which was dealt with in the Judgment.
6. I have considered the grounds upon which this application for leave to appeal has been brought and the arguments advanced by the parties at the hearing. I have also considered the reasons for my judgment on the main application and am of the view that there is neither a reasonable prospect that another court would come to a different conclusion nor an arguable point of law or other compelling reason which merits the granting for leave to appeal.
7. In the circumstances, it is ordered that:
 - 7.1 The application for leave to appeal is dismissed with costs, which costs include the costs of counsel on Scale B.

JJ STRIJDOM

JUDGE OF THE HIGH COURT OF SOUTH-AFRICA,

GAUTENG DIVISION, PRETORIA

APPEARANCES:

For the applicants: Adv BR Matlhape Instructed by: TA Dipudi Attorneys For the first to sixth respondents: Adv R Grundlingh Instructed by: Scheepers & Aucamp Attorneys

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Prepared on 9 October 2026 · Esheria