

SOUTH AFRICA / JUDGMENT

Trustees of the N Georgiou Trust and Another; Poole v Saffy N.O (2566/2021) [2024] ZAGPPHC 282 (18 March 2024)

[2024] ZAGPPHC 282

COURT

North Gauteng High Court, Pretoria

BEFORE

HF Jacobs

CASE / FILE NUMBER

2566/2021

Source: saflii.org · Research copy typeset by Esheria. Not court-issued or certified.

Source record

IN THE HIGH COURT OF
SOUTH AFRICA
(GAUTENG DIVISION,
PRETORIA)

Case No:

2566/2021

(1)

REPORTABLE: NO

(2)

OF INTEREST TO OTHER JUDGES: NO

(3)

REVISED.

DATE: 18 March 2024

SIGNATURE

In the matter between:

THE
TRUSTEES OF THE N GEORGIU TRUST
Applicant for
leave
to appeal
In re the intervention

application of:

THE TRUSTEES OF THE N
GEORGIU TRUST
Intervening Party

In re the matter between: SYDNEY
CLARENCE WILLIAM
POOLE
Applicant
and
LUKE
BERNARD SAFFY
N.O.
Respondent

JUDGMENT

HF JACOBS, AJ:

[1] On 5 February 2024 I dismissed the application to intervene as respondents brought by the trustees of the N Georgiou Trust in the

sequestration proceedings of the estate of late Mr Georgiou and granted the provisional sequestration order returnable 29 April

2024. This is an application for leave to appeal against the dismissal of the application to intervene and dismissal of the

application for postponement of the sequestration proceedings. The law applicable to applications for leave to appeal are recorded in Hunter[1] and I do restate the applicable principles here.

[2] Leave to appeal is sought on the basis that the appeal would have reasonable prospects of success on three grounds namely:

- (1) That another court may find that the trustees of the trust have the required standing in law that amounts to a real and substantive interest in the litigation and, therefore, a “legal right” to apply and be allowed to intervene in the sequestration proceedings as respondents;
- (2) That the two trustees have the capacity to intervene in the sequestration proceedings on a proper, contextual and purposeful interpretation of the trust deed, especially mindful of the content of clause 5 thereof; and
- (3) That the trustees have the right to intervene by reason of the legal consequences of the adopted Business Rescue Plan by the substantial majority of the body of creditors of the company mentioned in the main judgment.

[3] The trustees contend for a finding on the facts of the case that a provisional order for sequestration should not have been issued but that the proceedings should have been postponed and the trustees joined as respondents to have their rights considered later. In my opinion, for reasons recorded in the main judgment, the evidence does not justify such relief and that no prospect of success exists on appeal in this connection.

- [4] Cumulatively to the above grounds of appeal leave to appeal is also sought in terms of sub-section 17(1)(a)(ii) of Act 10 of 2014 on the basis that doubt about the contextual interpretation of sub-section 152(4) of the Companies Act of 2008 exist and uncertainty prevails about its application to the facts of the present matter that require that leave to appeal should be granted to the Supreme Court of Appeal to resolve the mischief.
- [5] I am not of the opinion that appeal would have reasonable prospects of success or that there exist conflicting judgments on the application of sub-section 154(2) of the Companies Act of 2008 or that there exist any other compelling reason why leave to appeal should be granted.
- [6] The application for leave to appeal is refused with costs.

H F JACOBS

ACTING Judge of the High Court

GAUTENG DIVISION, PRETORIA

Delivered: This judgment was handed down electronically by circulation to the parties' legal representatives by e-mail. The date and time for hand-down is deemed to be 14h00 on the 18th March 2024.

APPEARANCES

Applicant's counsel: Adv R Du Plessis SC Applicant's attorneys: Mr Stefan Redelinghuys

Respondent's counsel: Adv L Bolt Respondent's attorneys: Le Grange Attorneys

- [1] Hunter v Financial Services Board 2017 JBR 0941 (GP)

Source & reproduction note

Judgment wording, source notices and original paragraph numbers are retained. Esheria supplies the layout and this PDF's page numbers; these are not the source pagination. This is a research copy, not an official or certified court document. Check quotations, citations and publication restrictions against the original source before relying on it.

ORIGINAL SOURCE <https://www.saflii.org/za/cases/ZAGPPHC/2024/282.html>

CASE PAGE <https://chat.esheria.ai/case-law/south-africa/trustees-of-the-n-georgiou-trust-and-another-poole-v-saffy-unknown-topic-agpphc-2024>

Prepared on 13 October 2026 · Esheria