

SOUTH AFRICA / JUDGMENT

Tasima (Pty) Ltd v Department of Transport and Others (44095/12)

[2015] ZAGPPHC 787 (13 October 2015)

[2015] ZAGPPHC 787**COURT**

North Gauteng High Court, Pretoria

BEFORE

Hughes

CASE / FILE NUMBER

44095/12

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**IN THE HIGH COURT OF
SOUTH AFRICA
GAUTENG DIVISION,
PRETORIA**

Case Number: 44095/12**DATE: 13 OCTOBER 2015**

In the matter between: TASIMA (PTY)
LTD.....APPLICANT
And
THE DEPARTMENT OF
TRANSPORT.....1st
RESPONDENT
THE DIRECTOR-GENERAL: DEPARTMENT OF
TRANSPORT.....2nd RESPONDENT
THE MINISTER OF
TRANSPORT.....3rd
RESPONDENT
WERNER EDUARD
KOEKEMOER.....4th
RESPONDENT
ROAD TRAFFIC MANAGEMENT
CORPORATION.....5th
RESPONDENT
COLLINS
LETSOALO.....6th
RESPONDENT
KEVIN JOSHUA
KARA-VALA.....7th

RESPONDENT
MORNER
GERBER.....8th
RESPONDENT
GILBERTO
MARTINS.....9th
RESPONDENT
CHRIS
HLABISA.....10th
RESPONDENT
MAKHOSINI
MSIBI.....11th
RESPONDENT
Coram: HUGHES J
LEAVE TO APPEAL

JUDGMENT

HUGHESJ

1. In this application the applicant seeks leave to appeal against my judgment and order in the counter-claim of the applicant's. The counter-application is dated 6 July 2015 and the order as to costs was handed down on 28 August 2015.
2. The applicant withdrew their initial application for leave to appeal which was struck off the roll as it did not set out clearly the grounds upon which the applicants were seeking the leave to appeal.
3. I do not propose to reiterate the numerous grounds for leave to appeal set out in the applicant's notice of appeal. Save to state that the applicant has made submissions in this application for leave to appeal that comply with section 17 of the Superior Courts Act 10 of 2013 (the Act).
4. Having heard argument from both counsels for the applicant and for DoT, I am of the view, that there are compelling reasons to hear the appeal regarding the counter-claim and costs of 28 August 2015. This is in terms of section 17 (1)(a)(ii) of the Act.
5. It has been demonstrated throughout the proceedings between the parties that this case is of substantial importance to all the parties concerned. I do not intend to list the various factors that demonstrate this importance, save to add that this is a common cause fact between the parties. This in its self is a ground for leave to be granted.
6. The order to dismiss the counter-claim application essentially curtails Tasima obtaining substantial redress in the ordinary course. This, in my view, does cause Tasima irreparable harm.

7. Lastly, administration of justice in respect of the preservation of the control and administration of the eNatis system as a national key point dictates the necessity that appeal to be heard.
8. The costs issue is linked to the order dismissing the counter-claim application and as such it must be considered during the appeal.
9. The applicant's persisted in their argument that the counter-claim application appeal should be consolidated with that of the section 18 automatic appeal. In my view, the DoT did not present a convincing case as to why it should not be heard as a consolidated appeal, save to point out that the two applications were not inextricably linked, as persisted by the applicant. The DoT argued that the crux of the applicants appeal is based on the fact that they required payment for a period outside of the contracted period. I do not propose to go into any other submissions as I see these as the corner stone of the consolidation argument.
10. The section 18 appeal is scheduled to be heard on 30 October 2015 by the Full Court of this division. The appeal of the main application is scheduled to be heard in the Supreme Court of Appeal on 23 November 2015. The parties have argued both the merits of the section 18 and the counter-claim application together. There is no prejudice, the DoT did not point out any, that any of the defending parties would experience if the two appeals are consolidated.
11. The convenience in consolidating is evident for the all the parties concerned in that the proceedings are expedited and the costs are reduced especially so for the public purse which funds DoT. The aforesaid convenience, in itself, is sufficient for me to exercise my discretion to permit the consolidation of the appeal with an appropriate order as to the procedure going forward. See *Nel v Silicon Smelter (Edms) Bpk* 1981(4) SA 792 (A) at 801D.
12. In conclusion, leave to appeal the judgment of the counter-claim application and the order of costs made on 28 August 2015 is granted to the Full Court of this division. The costs of this application will be costs in the appeal. The appeal in the counter-claim application and the costs of 28 August 2015 is consolidated with that of the section 18 appeal and it is ordered that they be heard together.

W. Hughes Judge of the High Court

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Prepared on 10 October 2026 · Esheria