

**IN THE HIGH COURT OF SOUTH AFRICA  
SOUTH GAUTENG HIGH COURT  
JOHANNESBURG**

**CASE No. 2009/52898**



**DELETE WHICHEVER IS NOT APPLICABLE**

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

In the application for leave to appeal between:

**MUSTAFA AMAN ARSE**

Applicant

and

**MINISTER OF HOME AFFAIRS**

First Respondent

**DIRECTOR-GENERAL,**

**DEPARTMENT OF HOME AFFAIRS**

Second Respondent

**BOSASA (PTY) LTD**

**T/A PROSPECTS TRADING**

Third Respondent

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**JUDGMENT**

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**WILLIS J:**

This is an application for leave to appeal against the judgment and order which I gave in this matter on Thursday, 7<sup>th</sup> January, 2010.

The case involves novel principles of law and the interpretation of relatively new legislation. It also entails a difficult “balancing act” between competing interests and rights. The respondents very fairly and correctly did not oppose the application. I am satisfied that there

are reasonable prospects of success on appeal. The matter certainly touches upon important issues of law and indeed is of considerable importance to the parties.

The parties agreed that if leave to appeal were to be granted the appropriate forum to hear the appeal would be the Supreme Court of Appeal. I too agree. The case deserves a further hearing before our “elders” in the hierarchy of courts.

The following order is made:

- (i) The application for leave to appeal is granted;
- (ii) The appeal is directed to the Supreme Court of Appeal;
- (iii) The costs in the application for leave to appeal are to be costs in the appeal;
- (iv) The registrar of the Supreme Court of Appeal is respectfully requested to allocate a date for the hearing of the appeal as a matter of priority.

**DATED AT JOHANNESBURG THIS 11<sup>th</sup> DAY of JANUARY 2010.**

**N.P. WILLIS**

**JUDGE OF THE HIGH COURT**