

REPUBLIC OF SOUTH AFRICA



IN THE HIGH COURT OF SOUTH AFRICA

GAUTENG LOCAL DIVISION, JOHANNESBURG

Case number: 0028804/17

- 1) REPORTABLE: No
- 2) OF INTEREST TO OTHER JUDGES: No
- 3) REVISED

01 MARCH 2019

Date


Signature

In the matter between:

SIBIYA TEMBISA BELINDA

Applicant

And

THE SOUTH AFRICAN WOMEN IN

MINING HOLDINGS (PTY) LTD

First Respondent

MAPHANZELA, MANTOMBI GLORIA

Second Respondent

MNGOMEZULU SIMANGELE ESTER ANNAMARIA

Third Respondent

LANGENI NOLUTHANDO

Fourth Respondent

QABAKA NOMACI

Fifth Respondent

LEAVE TO APPEAL JUDGMENT

Molahlehi J

- [1] This is an application for leave to appeal against the judgment of this court made on 23 August 2018 in terms of which the applicant's application for a declaratory order was dismissed with costs. The applicant sought a declaratory interdict that she subscribed for shares in the first respondent on 5 May 2005.
- [2] In addition to the contention of the applicant as to what happened between the parties in 2005, the dispute arose in the context where Makume J on 15 November 2016 made the order that the applicant acquired the right to be issued with a share certificate.
- [3] In determining whether leave to appeal should be granted or refused I am guided by the test set out in s 17 of the Superior Courts Act 10 of 2013 which requires that leave to appeal should be granted where there are reasonable prospects of success on appeal.
- [4] It is erroneously recorded in the judgment that Makume J's order was made on the 22 November 2016. The correct date is 15 November 2016.

- [5] The applicant has raised several grounds of appeal in her application which is on record and thus need no repeat in this judgment. The application was opposed by the respondents.
- [6] In considering this application I have taken into account the grounds of appeal, written submissions made by both parties and the reasons for the decision by this court. It seems to me that there are reasonable prospects that the appeal court is likely to arrive at a decision different to that of this court when regard is had to the finding that a valid contract was concluded by the parties and the order of Makume J. In other words another court could arrive at a different conclusion if the conspectus of all material which served before this court was considered.
- [7] In the circumstances I am satisfied that the applicant has made out a case for leave to appeal.

Order

- [8] In the premises leave to appeal to the full bench of this court is granted with costs to be in the appeal.



E Molahlehi
Judge of the High Court;
Johannesburg.

Representation:

For the Applicant: Adv D B Ntsbeza SC with Adv T Mosiliki

Instructed by: Nyapotse Incorporated

For the Respondent: Adv D Mpufu SC with

Instructed by: Mabuza Attorneys.

Heard on: 15 February 2019

Delivered: 01 March 2019