

REPUBLIC OF SOUTH AFRICA



IN THE HIGH COURT OF SOUTH AFRICA  
GAUTENG LOCAL DIVISION, JOHANNESBURG

(1)	REPORTABLE: <del>YES</del> / NO
(2)	OF INTEREST TO OTHER JUDGES: <del>YES</del> / NO
(3)	REVISED.
<p>11/02/20</p> <p>.....</p> <p>Date</p>	
<p><i>[Signature]</i></p> <p>.....</p> <p>ML TWALA</p>	

CASE NO: 41211/2015

In the matter between:

MOBILE TELEPHONE NETWORKS (PTY)  
LIMITED

APPLICANT

AND

SMI TRADING CC

RESPONDENT

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## JUDGMENT

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**TWALA J**

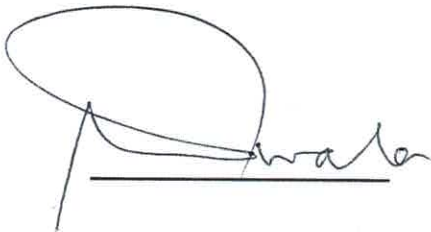
- [1] This is an application for leave to appeal the judgment and order of this Court handed down on the 19<sup>th</sup> of November 2019.
- [2] The grounds of appeal are clearly listed in the notice of appeal and I need not repeat them in this judgment. I owe gratitude to both counsel for the heads of argument and the submissions made during the hearing of this application.
- [3] Section 17 of the Superior Courts Act, 10 of 2013 provides as follows:
17. (1) *Leave to appeal may only be given where the judge or judges concerned are of the opinion that –*
- (a) (i) *the appeal would have a reasonable prospect of success; or*
- (ii) *there is some other compelling reason why the appeal should be heard including conflicting judgments on the matter under consideration;*
- (b) *the decision sought on appeal does not fall within the ambit of section 16(2)(a); and*
- (c) *where the decision sought to be appealed does not dispose of all the issues in the case, the appeal would lead to a just and prompt resolution of the real issues between the parties.*

(2) .....

[4] I have considered the heads of argument submitted by counsel and the submissions made. I am of the view that the judgment and order sought to be appealed against is interim and not final in nature. It is not dispositive of the whole matter nor is it dispositive of substantial issues in this case. I am of the respectful view therefore that this application has no merit and falls to be dismissed.

[5] In the circumstances, I make the following order:

The application for leave to appeal is dismissed with costs.



**TWALA M L**

**JUDGE OF THE HIGH COURT OF SOUTH AFRICA**

**GAUTENG LOCAL DIVISION**

**Date of hearing: 06<sup>th</sup> February 2020**

**Date of Judgment: 11<sup>th</sup> February 2020**

**For the Applicant: Adv. M Basslain SC  
Adv. K Manyage**

**Instructed by: Mashiane Moodley & Monama Inc  
Tel: 011 303 7900**

**For the Respondent: Adv. G Kairinos SC**

**Instructed by: Eugene Marais Attorneys  
Tel: 011 704 4831**