

REPUBLIC OF SOUTH AFRICA



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

CASE NO: 34622/2016

(1)	REPORTABLE: <input checked="" type="radio"/> NO / YES
(2)	OF INTEREST TO OTHER JUDGES: NO / <input checked="" type="radio"/> YES
(3)	REVISED.
	
.....	.....
MOOSA TAJ	11/11/2021

In the matter between:

**DARREN SAMPSON**

Plaintiff

And

**MINISTER OF JUSTICE AND  
CORRECTIONAL SERVICES**

First Defendant

**DEPARTMENT OF JUSTICE AND  
CONSTITUTIONAL DEVELOPMENT**

Second Defendant

**PRESIDING MAGISTRATE, A MPOFU N.O.**

Third Defendant

**THE MAGISTRATES COMMISSION**

Fourth Defendant

**SOUTH AFRICAN HUMAN RIGHTS COMMISSION**

Fifth Defendant

**NATIONAL PROSECUTING AUTHORITY**

Sixth Defendant

**SENIOR PUBLIC PROSECUTOR, C MULLER N.O.**

Seventh Defendant

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## LEAVE TO APPEAL – JUDGEMENT

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### MOOSA T. AJ:

#### INTRODUCTION:

1. On 6 October 2020 plaintiff filed an application for leave to appeal an interlocutory judgment handed down in the unopposed motion court on 16 September 2020 (“the court order”).
2. Section 17 of the Superior Courts Act 10 of 2013 provides for the following test to be applied in applications for leave to appeal:

*“ (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;*

*(ii) there is some other compelling reason why the appeal should be heard, including conflicting judgements 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.*

3. The Plaintiff embarked on an unusual trajectory of litigation and filed an application for review and rescission on 4 April 2021, the content of this application having nothing to do with the appeal and vacillating between allegations emanating from other matters unrelated to the interlocutory application and subsequent order. This application having been filed in complete disregard for the court rules.
4. Upon receipt of the defendants intention to oppose the application for leave to appeal ,the plaintiff indicated that he was unable to provide grounds for the appeal without being furnished with reasons for the court order, reasons were handed down on 4 June 2021.<sup>1</sup>
5. In the intervening six months the plaintiff failed to provide the court with the grounds for the application for leave to appeal, failed to set the matter down correctly, instead in complete disregard and unrelated to the interlocutory application and the court order granted therein, filed a joinder application, supplemented the review rescission application , filed an application for my recusal and proceeded to join the office of the Chief Justice and the Deputy Judge President without any regard for the rules of joinder.<sup>2</sup>
6. The plaintiff further embarked on litigating this matter by correspondence and demanded that the matter be set down for the hearing of the rescission / review application.
7. In response to the plaintiffs correspondence to the DJP demanding that the rescission/ review application be heard and that I be forced to recuse myself from the matter, on 2 November 2021 DJP Sutherland directed that the applications for leave to appeal and recusal be heard simultaneously and that in so far as the rescission application was concerned the plaintiff was advised to comply with the provisions outlined in the revised 18 September 2020 Directive ( issued 11 June

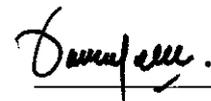
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<sup>1</sup> Caselines – 086-1 to 086-12

<sup>2</sup> Caselines: Joinder application 052 ; Rescission review application 054;084 ; recusal application 089

2021) and the Practise Manual of this court to have the application set down for hearing in the motion Court.

8. By agreement it was agreed between the parties that the matter would be heard virtually on 9 November 2020.
9. On 8 November 2020 the plaintiff addressed correspondence to myself indicating that he would only attend the hearing if I would hear the irregular application for joinder and in the absence hereof he would not waste his time to proceed with the application for leave to appeal and be "further humiliated".
10. The plaintiff did not appear for the virtual hearing and it was decided that in terms of the provisions outlined in the revised 18 September 2020 Directive, the matter would be decided on the papers before the court.
11. Save for the application for leave to appeal there are no further papers filed in respect hereof on behalf of the plaintiff.
12. In the premise, I reiterate my reasons as encapsulated in the reasons for judgement handed down on 4 June 2021.
13. There being no grounds of appeal, the application for leave to appeal is accordingly dismissed with costs



T. MOOSA AJ

**ACTING JUDGE OF THE HIGH COURT  
GAUTENG LOCAL DIVISION, JOHANNESBURG**

Delivered: This judgement was prepared and authored by the Judge whose name is reflected and is handed down electronically by circulation to the Parties/their legal representatives by email and by uploading it to the electronic file of this matter on CaseLines. The date for hand-down is deemed to be 11 November 2021.

**For the Plaintiff:**

Darren Sampson

Instructed by:

Plaintiff Appearing in person  
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Germiston  
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**Ref: Mr. Sampson/Defamation/Civil1**

**For the Defendants:**

Instructed by:

The State Attorney  
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**Ref: Mr. Johan Van Schalkwyk  
6309/16/P45/ns**

**For the 5<sup>th</sup> Defendant:**

Instructed by:

South African Human Rights Commission  
5<sup>th</sup> Defendant  
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Ref: Ms. P Siboto/LSU/Sampson

DATE OF HEARING:

09 November 2021

DATE OF JUDGMENT:

11 November 2021