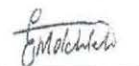


REPUBLIC OF SOUTH AFRICA



IN THE HIGH COURT OF SOUTH AFRICA
GAUTENG DIVISION, JOHANNESBURG

CASE NO: 38630/2021

1.REPORTABLE:	/NO
2.OF INTEREST TO OTHER	
JUDGES:	/NO
3.REVISED	
17 November 2021	
DATE	

In the matter between:

CHARLOTTE MAXEKE ACADEMIC HOSPITAL

First Applicant

MAKHOSI NYEMBE

Second Applicant

And

T and M CANTEEN CC

Respondent

This judgment is delivered electronically by circulation to the parties' legal representatives by email, and uploaded on caselines electronic platform. The date of issue is deemed to be 17 November 2021.

LEAVE TO APPEAL: JUDGEMENT

Molahlehi J

[1] This is an application for leave to appeal against the judgement of this court made on 14 September 2021. The court, in that judgment, ordered the applicant to

restore the peaceful possession of the canteen, which is in the premises of the first applicant, Charlotte Maxeke Academic Hospital (the first respondent in the urgent application). In other words, the court granted the respondent, T and M Canteen CC (the applicant in the urgent application) *mandamante van spolie*.

[2] The respondent, T and M Canteen CC, opposed the application.

[3] It is now well established that the standard of reasonable prospects of success on appeal in an application for leave to appeal has been elevated to a higher standard by the provisions of the Superior Courts Act 10 of 2013 (the SC Act). In this respect, section 17 of the SC Act provides that leave to appeal may be granted in circumstances where the court believes that the appeal would have reasonable prospects of success or some other compelling reason why the appeal should be heard.

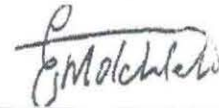
[4] The applicants have raised several grounds of appeal, which appear in both the notice of leave to appeal and the supplementary grounds of appeal. The grounds of appeal are substantiated further in the oral submission made during the hearing.

[5] I do not deem it necessary for this judgement to repeat every ground for leave to appeal stated in the applicants' application as the same appears on the record. I need to point out also that the issues raised in this application are the same as those raised in response to the urgent application and the relief sought therein. In my view, those issues were fully ventilated and considered in that judgment.

[6] In considering this application and applying the test for leave to appeal summarised above, I found that there are no prospects of success that the court of appeal would arrive at a decision different to that reached by this court. Thus the application stands to fail.

Order

[7] In the premises, the applicants' application for leave to appeal is dismissed with costs.



E Molahlehi
Judge of the High Court,
Gauteng Local Division,
Johannesburg

Representation:

For the Applicants: Adv FJ Nalane

Instructed by: Mogaswa and Associates Inc. Attorneys

For the Respondent: Adv B Bhabha

Instructed by: SALI Attorneys

Heard on: 10 November 2021

Delivered: 17 November 2021

