



**IN THE HIGH COURT OF SOUTH AFRICA
(GAUTENG DIVISION, JOHANNESBURG)**

Case no. 40441/2021

DELETE WHICHEVER IS NOT APPLICABLE

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

27 July 2022

SIGNATURE

In the application for leave to appeal between:

REPUBLIC OF MOZAMBIQUE

Applicant

and

**FORUM DE MONITORIA
DO ORÇAMENTO**

First Respondent

MANUAL CHANG

Second Respondent

**MINISTER OF JUSTICE AND
CORRECTIONAL SERVICES**

Third Respondent

**DIRECTOR OF PUBLIC PROSECUTIONS,
GAUTENG LOCAL DIVISION, JOHANNESBURG**

Fourth Respondent

HELEN SUZMAN FOUNDATION

Fifth Respondent

**DIRECTOR GENERAL: DEPARTMENT
OF HOME AFFAIRS**

Sixth Respondent

MINISTER OF HOME AFFAIRS

Seventh Respondent

LEAVE TO APPEAL JUDGMENT

[1] The applicant seeks leave to appeal to the Supreme Court of Appeal against prayers 1 and 2 of the order given by me on 10 November 2021. The first and fifth respondents oppose the application. The first respondent abides the decision of this Court.

[2] I granted the following relief:

Order

1. The decision by the second respondent on or about 23 August 2021, to extradite the first respondent to the Republic of Mozambique, is declared to be inconsistent with the Constitution of South Africa 1996, and is invalid and set aside.

2. The decision of the second respondent on 21 May 2019 is substituted with the following:

“Mr Manuel Chang is to be surrendered and extradited to the United States of America to stand trial for his alleged offences in the United States of America, as contained in the extradition request, dated 28 January 2019.

[3] On 15 December 2021, the applicant applied for leave to appeal directly to the Constitutional Court. The application was dismissed with costs and the Constitutional Court found that it was not in the interests of justice to hear the case at that stage.

[4] The Minister did not oppose the relief or support the relief sought in the Constitutional Court. The same applies in this application for leave to appeal

[5] The applicant in its Notice of Appeal has relied upon section 17(1)(a)(i)(ii) of the Superior Courts Act 10 of 2013. Section 17(1)(a) provides:

“Leave to appeal may only be given where the judge or judges concerned are of the opinion that-

- (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;”

[6] I have considered the submissions made by all the parties. I find that the applicant has not presented any compelling reasons why the applicant should be granted leave to appeal. Furthermore the appeal does not have a reasonable prospect of success in a higher court.

[7] In the result the applicant for leave to appeal is refused.

THE ORDER

(1) Leave to appeal is refused.

(2) The applicant shall bear the costs of the application for leave to appeal in respect of the First Respondent including the costs of two counsel and the costs of the Fifth Respondent.



VICTOR, J
JUDGE OF THE HIGH COURT GAUTENG LOCAL DIVISION
DATE: 27 JULY 2022

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