

**REPUBLIC OF SOUTH AFRICA**



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

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

7/12/2022

DATE

[Signature]

SIGNATURE

Case no.: **2021/42636**

In the matter between:

**THE CITY OF JOHANNESBURG METROPOLITAN  
MUNICIPALITY**

Appellant

And

**SPECITRIM (PTY) LTD**

First Respondent

**EDMANET (PTY) LTD**

Second Respondent

**NOSKOP 1 (PTY) LTD**

Third Respondent

**UNLOCKED PROPERTIES 23 (PTY) LTD**

Fourth Respondent

**UNLOCKED PROPERTIES 5 (PTY) LTD**

Fifth Respondent

**LIMOWARE (PTY) LTD**

Sixth Respondent

**LISACRAFT (PTY) LTD**

Seventh Respondent

Coram: Dlamini J

Date of hearing: 12 October 2022 – in a ‘virtual Hearing’ during a videoconference on Microsoft Teams digital platform.

Date of delivery of Judgment: 07 December 2022

This Judgment is deemed to have been delivered electronically by circulation to the parties’ representatives via email and shall be uploaded onto the caselines system.

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**JUDGMENT**  
**[LEAVE TO APPEAL]**

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**DLAMINI J**

[1] This is an application for leave to appeal an order that I handed down on 18 January 2022.

[2] The appellant is the City of Johannesburg Metropolitan Municipality (CoJ).

- [3] The respondents are the owners of various immovable properties falling within the municipal jurisdiction of the CoJ, the appellant, in its capacity as the Local Governing Municipality.
- [4] The nub of the issue is whether the appellant has correctly charged the respondents using the correct tariff for services the CoJ delivered to the respondents.
- [5] The effect of my order was that the appellants are directed to engage and interrogate the respondent's various municipal accounts to ensure that the respondents have been correctly billed.
- [6] The test for granting leave to appeal is now a higher one.
- [7] The trial court may now only grant leave to appeal if it is of the opinion that the appeal would have a realistic chance of success and not may have a reasonable prospect of success. The legislator's use of the would in section 17(1)(a)(i) of the Superior Court Act imposes a most stringent and vigorous threshold.
- [8] This concept was captured thus by the court in **Member of the Executive Council of Health Eastern Cape v Mikhita and another**<sup>1</sup> where the court held that a court may now only grant leave to appeal if it is of the opinion that the appeal would have a realistic chance of success not may have a reasonable chance of success. A mere possibility of success or even an arguable case is not enough.
- [9] Having read the applicant's reasons to appeal and heard both Counsels during argument, I am of the view that no court will come to a different conclusion than the one that I have reached.

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<sup>1</sup> 1221/2015 [2016] ZASCA 176 (25 NOVEMBER 2016 at 16)

[10] No other Court would give a contrary decision from the order which I granted on 18 January 2022.

In all the above circumstances the apellant has failed to make out its case.

**ORDER**

1. The application for leave to appeal is dismissed with costs.



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**DLAMINI J**

JUDGE OF THE HIGH COURT OF SOUTH AFRICA

GAUTENG LOCAL DIVISION, JOHANNESBURG

Date of hearing: 12 October 2022

Delivered: 07 December 2022

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