REPUBLIC OF SOUTH AFRICA

IN THE HIGH COURT OF SOUTH AFRICA

(GAUTENG DIVISION, PRETORIA)

CASE NO: 72861/12

24/2/2016

In the matter between:

JOHANNESBURG BARA QWAQWA TRANSPORT SERVICES TAXI ASSOCIATION (PTY) LTD (JBQQTA)	APPLICANT
and	
THE GAUTENG PROVINCIAL TRANSPORT REGULATOR ENTITY	1ST RESPONDENT
THE MEC FOR THE DEPARTMENT OF ROADS AND TRANSPORT OF GAUTENG	2ND RESPONDENT
THE MEC FOR COMMUNITY SAFETY, GAUTENG	3RD RESPONDENT
CITY OF JOHANNESBURG	4TH RESPONDENT
JOHANNESBURG MINIBUS TAXI ASSOCIATION	5TH RESPONDENT
FORMER REGISTRAR OF TRANSPORT FOR GAUTENG PROVINCE, PETER DLAMINI	6TH RESPONDENT
FORMER CHAIRPERSON OF THE GAUTENG PUBLIC PASSENGER APPEAL BOARD	7TH RESPONDENT

JUDGMENT

KUBUSHI, J

[1] The applicant is applying for leave to appeal to a full court of this Division, alternatively the Supreme Court of Appeal, against the whole of the judgment and order I handed down on 4 November 2015.

[2] When the parties appeared before me to argue the application, there was no appearance or representation on behalf of the 5th respondent. On the day I was to deliver the judgment in respect of the application for leave to appeal, the 5th respondent's counsel made his appearance. Per agreement between the parties the 5th respondent was allowed to file heads of argument which I would consider before I deliver judgment. The 5th respondent's counsel has since provided me with the heads of argument and I have considered the heads for purposes of this judgment.

[3] In the notice of application the applicant raised comprehensive grounds of appeal. However, before me, the applicant's counsel argued only what he referred to as pertinent grounds.

[4] The crux of the issue in this application for leave to appeal is, in my view, whether at the time the main application served before me it was opposed or not. I found in that regard as follows:

"My conclusion therefore is that the applicant's opposing papers were filed and served out of time. The applicant should have applied for condonation. Having not done so it means the matter is unopposed and should be heard in the unopposed motion court."

[5] The applicant's submission is that at the time of considering the matter the application was opposed because at that time the counter application was already launched. Once the counter application was filed the matter became opposed and should have been directed to the opposed court, so it was argued.

[6] Leave to appeal may only be given where the judge or judges concerned are of the opinion that the appeal would have a reasonable prospect of success (section 17 of the Superior Courts Act).

[7] I am, thus, of the opinion that on the ground, as stated in paragraph [5] of this judgment, another court might come to a different conclusion as such the appeal has a reasonable prospect of success. Leave to appeal ought to be granted.

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

1. The applicant is granted leave to appeal to the Full Court of the Gauteng Division of the High Court, Pretoria, against the whole of the judgment and order granted on 4 November 2015.

2. Costs are cost in the appeal.

E.M. KUBUSHI

JUDGE OF THE HIGH COURT

APPEARANCES

HEARD ON THE	**: 07 DECEMBER 2015**
DATE OF JUDGMENT	**: 24 FEBRUARY 2016**
APPLICANT'S COUNSEL	**: ADV J G RAUTENBACH, SC**
APPLICANT'S ATTORNEY	**: H.J GROENEWALD ATTORNEYS**
1,2,3, 6 & 7th RESPONDENTS' COUNSEL	**: MR D MTSHWENI**
1,2,3, 6 & 7th RESPONDENTS' ATTORNEY	**:STATE ATTORNEYS**
4th RESPOND ENT'S COUNSEL	**: ADV M.C. MAKGATHO**
4TH RESPONDENT'S ATTORNEY	**: PRINCE MUDAU ATTORNEYS**
5TH RESPONDENT'S ATTORNEYS	**: F.Z NZAMA ATTORNEYS**
5TH RESPONDENT'S COUNSEL	**: ADV M J MASHAVHA**

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

CASE NO: 72861/12

In the matter between:

JOHANNESBURG BARA QWAQWA TRANSPORT SERVICES TAXI ASSOCIATION (PTY) LTD ("JBQQTA)	Applicant
AND	
THE GAUTENG PROVINCIAL TRANSPORT REGULATORY ENTITY	First respondent
THE MEC FOR THE DEPARTMENT OF ROADS AND TRANSPORT GAUTENG	Second respondent
THE MEC FOR COMMUNITY SAFETY GAUTENG PROVINCE	Third respondent
THE CITY OF JOHANNESBURG	Fourth respondent
JOHANNESBURG MINIBUS TAXI ASSOCIATION	Fifth respondent
FORMER REGISTRAR OF TRANSPORT FOR GAUTENG PROVINCE: PETER DLAMINI	Sixth respondent
FORMER CHAIRPERSON OF THE GAUTENG PUBLIC PASSENGER APPEAL BOARD	Seventh respondent

FILING SHEET

DOCUMENTS FILED: FIFTH RESPONDENT'S HEADS OF ARGUMENT

Signed at **Johannesburg** on this the 05 day of February 2016.

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