



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

DELETE WHICHEVER IS NOT APPLICABLE

(1) REPORTABLE: ~~YES~~/NO  
(2) OF INTEREST TO OTHERS JUDGES: ~~YES~~/NO  
(3) REVISED

24/2/16  
DATE

*[Signature]*  
SIGNATURE

CASE NO: 43125/13

18/2/2016

In the matter between:

**BARBERTON MINES (PTY) LTD**

Applicant

and

**MPUMALANGA TOURISM AND PARKS AGENCY**

1<sup>st</sup> Respondent

**MOUNTAINLANDS OWNERS ASSOCIATION**

2<sup>nd</sup> Respondent

**THE TRUSTEES FOR THE TIME BEING OF THE  
LOMSHIYO TRUST**

3<sup>rd</sup> Respondent

**WAY PROP TWO (PTY) LTD**

4<sup>th</sup> Respondent

**SIMPLY SEE (PTY) LTD**

5<sup>th</sup> Respondent

**THE DEPUTY DIRECTOR GENERAL:  
DEPARTMENT OF MINERAL RESOURCES**

6<sup>th</sup> Respondent

**THE REGIONAL MANAGER: EMALAHLENI  
REGIONAL OFFICE, DEPARTMENT OF  
MINERAL RESOURCES**

7<sup>th</sup> Respondent

**THE DIRECTOR GENERAL: DEPARTMENT OF  
MINERAL RESOURCES**

8<sup>th</sup> Respondent

**THE MINISTER OF MINERAL RESOURCES**

9<sup>th</sup> Respondent

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**APPLICATION FOR LEAVE TO APPEAL JUDGMENT**

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**Bagwa J**

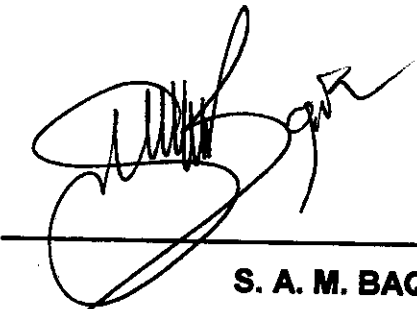
- [1] This is an application for leave to appeal against my judgment of 28 October 2015 by the first and second respondent.
- [2] The grounds for the application are set out in detail in the application for leave and I do not propose to repeat those in this brief *ex tempore* judgment.
- [3] Making reference to those grounds Mr Wesley has addressed me comprehensively expanding on those grounds. Mr Lazarus in his equally comprehensive address and with reference to his heads of argument has sought to persuade me not to grant leave to appeal.
- [4] It is correct that whilst the facts of the case may be simple and easy to comprehend, those facts, the relevant statutory and case law on which the parties base their respective cases raise difficult and novel points of law which can be subject to different ways of interpretation.

[5] On that basis, I am of the view that another court could possibly come to a conclusion different from the one reached in my judgment.

[6] In the result the following order is made:

6.1 Leave is granted to appeal to the Supreme Court of Appeal against the whole judgment and order including the order for costs against the first and second respondents only.

6.2 Costs to be costs in the Appeal.



**S. A. M. BAQWA**  
**JUDGE OF THE HIGH COURT OF SOUTH AFRICA**  
**GAUTENG DIVISION, PRETORIA**

Date of Hearing: 18 February 2016

Date of Judgment: 18 February 2016

For the Applicant: Adv. P. Lazarus (SC)  
Instructed by: Malan Scholes Incorporated

For the Respondents: Adv. M. A. Wesley (SC)  
Instructed by: Richard Spoor Incorporated  
(1<sup>st</sup> to 5<sup>th</sup> Respondents)

Instructed by: The State Attorney  
(6<sup>th</sup> to 9<sup>th</sup> Respondents)