



IN THE HIGH COURT OF SOUTH AFRICA

GAUTENG DIVISION, PRETORIA

Case no: 34321/10

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

In the matter between:

MINERAL-LOY (PTY) LTD

Plaintiff

(Respondent in the application for leave to appeal)

and

**HIGHVELD STEEL & VANADIUM CORPORATION
LTD STEEL AND VANADIUM LIMITED**

First Defendant

TRANSALLOYS (PTY) LTD

Second Defendant

(Applicant in the application for leave to appeal)

JUDGMENT

AC BASSON, J

[1] The defendant (applicant in the application for leave to appeal) seeks leave to appeal both against the costs order (as handed down on 27 January 2020) and the finding in the application for reconsideration of the costs order in terms of Rule 34(12) (as handed down on 30 October 2020).

[2] The grounds for leave to appeal have been fully ventilated in both parties' heads of argument.

[3] Section 17(1) of the Superior Courts Act ("the Act")¹ provides that leave to appeal may only be granted where the Judge or Judges concerned are of the opinion that —

“(a)

(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”

[4] I am, after having considered all the submissions, persuaded that the defendant (applicant) has satisfied the requirements of section 17(1)(a) of the Act regarding the prospects of success on appeal. Accordingly, the application for leave to appeal is granted. Costs are costs in the appeal.

[5] It is further ordered that the appeal against the costs order made in the judgment handed down on 27 January 2020 and the appeal against the order for a reconsideration of the costs order handed down on 2 November 2020 be heard by the same court (the Full Court of this Division).

¹ Act 10 of 2013.

Delivered: This judgment was prepared and authored by the Judge whose name is reflected and is handed down electronically by circulation to the Parties/their legal representatives by email and by uploading it to the electronic file of this matter on CaseLines. The date for hand-down is deemed to be 4 March 2021.

A.C. BASSON

JUDGE OF THE HIGH COURT

GAUTENG DIVISION OF THE HIGH COURT, PRETORIA

Electronically submitted therefore unsigned

Appearances

For the plaintiff / respondent:

Adv G Kairinos SC

Adv A Schluep

Instructed by:

Andrew Duff Attorneys

For the defendant / applicant:

Adv J Daniels SC

Adv CT Vetter

Instructed by:

Mervyn Taback Inc