



**IN THE HIGH COURT OF SOUTH AFRICA
GAUTENG DIVISION, PRETORIA**

CASE NUMBER: 92967/2019

1. REPORTABLE: **NO**
2. OF INTEREST TO OTHER JUDGES: **NO**
3. REVISED: 17 August 2021

17 August 2021
DATE


SIGNATURE

In the matter between:

MIGHTY MWALE

APPLICANT

and

THE FINANCIAL SERVICES TRIBUNAL

FIRST RESPONDENT

PRUDENTIAL AUTHORITY

SECOND RESPONDENT

JUDGMENT ON LEAVE TO APPEAL

COERTZEN, AJ:

[1] I delivered the main judgment in this matter on 24 May 2021. The applicant now applies for leave to appeal.

- [2] When the applicant's notice of application for leave to appeal was brought to my attention, I requested the parties, through the registrar, to provide me with written heads of argument in respect of the application for leave to appeal. I also requested the parties to indicate in their heads of argument whether the application for leave to appeal may be disposed of without an oral hearing. The parties to the application (the applicant and the second respondent) are *ad idem* that the application for leave to appeal may be disposed without an oral hearing. The application for leave to appeal is therefore disposed of on the papers. The applicant's heads of argument were only brought to my attention on 3 August 2021.
- [3] I have considered the application for leave to appeal together with the heads of argument filed by the applicant and the second respondent. The main judgment deals sufficiently with the issues between the parties and with the questions of law which were determined on review. There is no need to add to the reasons already given and the findings already made in the main judgment.
- [4] In my view the correct interpretation, scope and application of the relevant Notice in issue,¹ and of the related statutory provisions, present sufficient grounds to hold that there is "*some other compelling reason why the appeal should be heard*".² Leave to appeal should therefore be granted.
- [5] The applicant seeks leave to appeal to the Supreme Court of Appeal. However, I do not consider that the decision to be appealed involves a question of law of importance, whether because of its general application or otherwise, or in respect of which a decision of the Supreme Court of Appeal is required to resolve differences of opinion; or that the administration of justice requires consideration by the Supreme Court of Appeal of the decision.³ I must therefore direct that the appeal be heard by the full court.

¹ GN 498 published in Government Gazette No. 17895 on 27 March 1997

² Section 17(1)(a)(ii) of the Superior Courts Act, 10 of 2013.

³ Section 17(6)(a) of the Superior Courts Act, 10 of 2013.

In the result it is ordered:

1. Leave to appeal is granted to the full court of this division;
2. The costs of the application for leave to appeal shall be costs in the appeal.

A handwritten signature in black ink, appearing to read 'YVAN COERTZEN', is written over a horizontal line.

YVAN COERTZEN
ACTING JUDGE OF THE HIGH COURT
GAUTENG DIVISION, PRETORIA

This judgment was handed down electronically by circulation to the parties' legal representatives by email and by uploading the judgment onto the digital CaseLines system utilised in this division. The date and time for hand-down is deemed to be at 10h00 on 17 August 2021.

Appearances:

The application for leave to appeal is disposed on the papers without an oral hearing.

For the applicant:

MB Mhango

Attorneys for the applicant:

Bazuka & Company Inc.

Randburg

Counsel for second respondent: Adv EL Theron SC

Adv S Mathiba

Attorneys for the second respondent:

Bowman Gilfillan Inc.

Pretoria