

(Inlexso Innovative Legal Services)

IN THE HIGH COURT OF SOUTH AFRICA

GAUTENG DIVISION HELD AT PRETORIA

CASE NO: 89103/2019

DATE: 2021.06.28

DELETE WHICHEVER IS NOT APPLICABLE
(1) REPORTABLE: ~~YES~~ / NO
(2) OF INTEREST TO OTHER JUDGES: ~~YES~~ / NO
(3) REVISED

16/9/2021

A Haupt

10 In the matter between

Z CASSIM N.O. AND ANOTHER

and

QUICKSTEP 684 (PTY) LIMITED

J U D G M E N T
EXTEMPORE

HAUPT, AJ: In the leave to appeal of Cassim *nomine officio*
20 and another *versus* Quickstep 684 (Pty) Limited, case number
89103/2019 I give the following *extempore* judgment:

The application for leave pertains to an opposed motion
application for the liquidation of Quickstep 684 (Pty) Limited
under case number 89103/2019.

I do not intend dealing with the factual matrix and the
chronology of the litigation that ensued prior and after the

sequestration of Jacqueline Howard who during 2007 obtained shares in Quickstep from the founder and the then director of both Quickstep and Leboa Investments 22 (Pty) Limited.

Both applications for liquidations against Quickstep and Leboa, Leboa being under case number 89101/2019, were issued on the same day by the applicants and argued together before me. I further do not intend summarising the grounds for leave to appeal served on 7 January 2021, as it the notice for leave to appeal sets out the same arguments, in essence, as
10 already considered by me in the judgment granted on 18 December 2020.

The application for leave to appeal is sought in terms of the provisions of section 17(1)(a)(i) of the Superior Courts Act. The applicant contends that the appeal would have a reasonable prospect of success and there is compelling reason why the appeal should be heard by a full Court, alternatively the Supreme Court of Appeal.

The threshold for the granting of leave to appeal has been raised. The authorities regarding the use of the word
20 "would" in the new act is indicative of the measure of certainty that another Court will differ from the Court whose judgment is sought to be appealed against and this does not need any further discussion.

In determining whether there is a reasonable prospect of success that another Court would grant a different order I

considered the judgment of 18 December 2020, the order granted, the liquidation application, the heads of argument filed by both Mr Raubenheimer, on behalf of the applicants, and Mr van Rooyen during July 2020 and the subsequent heads that were filed by both counsel who appeared before me this morning, as well as the grounds set out in the notice for leave to appeal.

Mr van Rooyen this morning indicated that the respondents are raising a point *in limine*. I am not agreement
10 with the point *in limine* raised by Mr van Rooyen on behalf of the respondents that the order is not appealable as it is not final in its effect. In my view the order is clear in this regard, particularly at prayer 2 and 3 thereof, and the lack of *locus standi* is the end of the matter for the applicants.

However, nothing turns, in my view, at this stage on the point *in limine* as I am not persuaded with a measure of certainty that another Court will differ from the judgment dated 18 December 2020. Consequently I am not persuaded that the appeal will have a reasonable prospect of success. In the
20 result the following order is made:

ORDER

The leave to appeal is refused with costs.

.....
HAUPT, AJ

JUDGE OF THE HIGH COURT

DATE: 16/9/2021

10

20