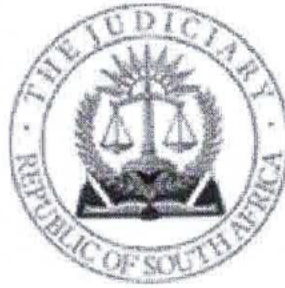


REPUBLIC OF SOUTH AFRICA



IN THE HIGH COURT OF SOUTH AFRICA

GAUTENG DIVISION, PRETORIA

CASE NO: 57045/20

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

Date: 1 March 2022 E van der Schyff

In the matter between:

In the matter between:

KINGSGATE CLOTHING (PTY) LTD

MAYTEX LINEN CC

SUPER OCEAN TRADING CC

MAYTEX CARDING CC

CRUISE COLLECTIONS CC

TWIN CLOTHING MANUFACTURERS (PTY) LTD

APPAREL INDUSTRIES (PTY) LTD

CLEMATIS TRADING (PTY) LTD

FIRST APPLICANT

SECOND APPLICANT

THIRD APPLICANT

FOURTH APPLICANT

FIFTH APPLICANT

SIXTH APPLICANT

SEVENTH APPLICANT

EIGHTH APPLICANT

and

EDCON LIMITED (IN BUSINESS RESCUE)	FIRST RESPONDENT
PIERS MARSDEN (JOINT BUSINESS RESCUE PRACTITIONER)	SECOND RESPONDENT
LANCE SHAPIRO (JOINT BUSINESS PRACTITIONER)	THIRD RESPONDENT
JUSTICE FDJ BRAND	FOURTH RESPONDENT

JUDGMENT

Van der Schyff J

Introduction

- [1] In this judgment, the parties are referred to as in the main application.
- [2] The applicants filed an application for leave to appeal against the whole of the judgment and order delivered on 15 November 2021. The applicants raised several grounds of appeal. I do not intend to deal with these grounds herein, as I handed down a written judgment wherein I provided the reasons for my findings. The grounds of appeal generally constitute a re-arguing of matters argued when the application was heard.
- [3] It is trite that to succeed in an application for leave to appeal, ‘more is required to be established than that there is a mere possibility of success, that the case is arguable on appeal or that the case cannot be categorised as hopeless.’¹
- [4] The applicants submit that a compelling reason exists for leave to appeal to be granted to them. I disagree. The importance of context in interpreting documents, and the admissibility of contextual evidence do not constitute a novel ground that needs to be pronounced on by the Supreme Court of Appeal.


¹ *Smith v S* 2012 (1) SACR 567 (SCA) at para 7.

- [5] After considering the grounds of appeal, I am not of the opinion that a reasonable probability exists that another court would or could come to a different conclusion.
- [6] Regarding costs, the application for leave to appeal was not complex. The respondents did not file heads of argument and the submissions made by counsel was to the point and curt. Opposing the application for leave to appeal did not require the service of two counsel.

ORDER

In the result, the following order is made:

1. The application for leave to appeal is dismissed with costs.


 E van der Schyff
 Judge of the High Court

Delivered: This judgement is handed down electronically by uploading it to the electronic file of this matter on CaseLines. It will be sent to the parties/their legal representatives by email as a courtesy gesture. The date for hand-down is deemed to be 1 March 2022.

Counsel for the applicants:	Adv. O A Moosa SC
With:	Adv. A MacManus
Instructed by:	Pather and Pather Attorneys Inc.
Counsel for the 1 st – 3 rd respondents:	Adv. A E Bham SC
With:	Adv. J. E Smit
Instructed by:	ENS Africa
Date of the hearing:	21 February 2022
Date of judgment:	1 March 2022