

**REPUBLIC OF SOUTH AFRICA
IN THE HIGH COURT OF SOUTH AFRICA
(LIMPOPO DIVISION, POLOKWANE)**

CASE NO: 6029/2019

REPORTABLE: YES/NO

OF INTEREST TO OTHER JUDGES: YES/NO

REVISED

DATE:14/06/2023

In the matter between:

LLALA PETER PHOSHOKO

APPLICANT

And

CHAIRPERSON OF THE CCMA GOVERNING BODY FIRST RESPONDENT

THE CCMA GOVERNING BODY

SECOND RESPONDENT

**COMMISSION FOR CONCILIATION, MEDIATION
AND ARBITRATION (CCMA)**

THIRD RESPONDENT

NATIONAL DIRECTOR OF THE CCMA

FOURTH RESPONDENT

JUDGMENT

MASHABA AJ

[1] The Applicant in this matter applied for leave to appeal my judgment after I had rescinded the judgment of the Honourable Justice Semanya granted on 20 May 2021. The Respondents had brought the recission application in terms of Rule 42 (1) (a) and (b) of the Uniform Rules of Court (“the rules”).

[2] The Applicant noted numerous grounds for leave to appeal. I do not find it necessary to labour into detail every ground that the Applicant has made in his application for leave to appeal, his heads of argument and during submissions.

[3] The preliminary issue raised by Counsel for the Respondents which is fundamental in this leave to appeal application was whether my rescission order was appealable. The order is not appealable if it is (a) not final in effect and is open to alteration by the court below; (b) not definitive of the rights of the parties; and (c) does not have the effect of disposing of a substantial portion of the relief claimed.¹

[4] It is evidently clear that my rescission order is not final. What my order simply did was to allow the litigation process in this matter back for hearing. My order did not dwell into the merits or demerits of the main application. The parties will, during the hearing of the main application, have a right to present their respective cases. My rescission judgment does not preclude any of the parties to this application to present their cases in any way whatsoever. The merits of the case in the main application must still be decided upon by the Court which will be vested with this matter in the future. My rescission order was simply interlocutory to the main application.

[5] My rescission order was not definitive of the rights of any of the parties. Neither did it have the effect of disposing of a substantial portion of the relief claimed. I therefore find that my rescission order is not appealable. As a result of my finding on this preliminary issue I do not deem it necessary to address the other grounds raised by the applicant in his application for leave to appeal.

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

(a) The leave to appeal is dismissed with costs.

MG Mashaba
Acting Judge of the High Court

¹ Crockery Gladstone Farm v Rainbow Farms (Pty) Ltd (592/18) [2019] ZASCA 61 (20 May 2019), Zweni v The Minister of Law and Order 1993 (1) SA 523 (A), SA Informal Traders Forum v City of Johannesburg 2014 (4) SA 971 (CC), Roelitta CC trading as RVR Consulting and Another v National Youth Development Agency and Others [2018] JOL 39763 (GJ).

APPEARANCES:

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IN PERSON

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FOR THE RESPONDENTS:

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DATE HEARD:

12 JUNE 2023

DATE DELIVERED:

14 JUNE 2023