



THE SUPREME COURT OF APPEAL OF SOUTH AFRICA

MEDIA SUMMARY OF JUDGMENT DELIVERED IN THE SUPREME COURT OF APPEAL

FROM The Registrar, Supreme Court of Appeal

DATE 11 September 2015

STATUS Immediate

Muldersdrift Sustainable Development Forum v Mogale City (20424/14) [2015]
ZASCA 118 (11 September 2015)

Please note that the media summary is for the benefit of the media and does not form part of the judgment.

Today the Supreme Court of Appeal (SCA) dismissed an appeal by the Muldersdrift Sustainable Development Forum, a residents' association against Mogale City, a municipality.

The appellant had sought an order declaring that Mogale City's municipal manager, whose contract had been renewed in 2012 for a further five-year term, had not been duly re-appointed and that his appointment was therefore invalid. The rationale appeared to be that the appellant wished to contest, in a separate application, the municipal manager's decision to establish an emergency site and service centre.

The Muldersdrift Sustainable Development Forum had founded its application on the provisions of the Local Government: Municipal Systems Act 32 of 2000, which

required that it should be the municipal council and not the executive mayor that made the appointment of the municipal manager and also that the post should be advertised nationally and be made in writing.

The appellant had not relied on either s 38 of the Constitution or the Promotion of Administrative Justice Act 3 of 2000 (PAJA). The application had been brought way out of time in terms of the 180- day time period stipulated in PAJA.

The SCA found that the extension of the municipal manager's contract had indeed been procedurally defective but this appears to have been the result of no more than an error. Accordingly, in the circumstances of the particular case, the appellant did not have a legally recognised interest in obtaining the order sought and therefore had no locus standi or legal standing to bring the application.

The SCA also found that even if the appellant had brought the application in terms of s 38 of the Constitution or the Promotion of Administrative Justice Act 3 of 2000 (PAJA), or some other legal basis, it would have undermined the interests of justice to declare the appointment invalid in circumstances where certainty was required.

The SCA found that the high court had correctly dismissed the application.