

IN THE HIGH COURT OF SOUTH AFRICA

(WESTERN CAPE, HIGH COURT, CAPE TOWN)

CASE NUMBER:

10714/2009

DATUM:

08 FEBRUARY 2010

5 In the matter between:

STELLENBOSCH RATEPAYERSASSOCIATION

1st Applicant

ALBERTA HAYES

2nd Applicant

10 and

STELLENBOSCH MUNICIPALITY

1st Respondent

DENNIS MOSS PLANNERS& ARCHITECTS(PTY) LIMITED

2nd Respondent

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JUDGMENT

(Application for leave to appeal)

BAARTMAN, J:

20 This is an application for leave to appeal against the whole of
this Court's judgment delivered on 2 December 2009. I have
dealt with the facts relevant to this matter in my earlier
judgment and do not repeat them.

25 It is in dispute whether the issues raised in this application are
moot. Mr Heunis, the applicants' counsel, submitted that the

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matter is likely to be heard by the Supreme of Appeal after the 2010 Fifa World Cup.

It is common cause that the disputes in this application involve
5 the construction of viewing stadia specifically to accommodate
the needs of a particular community during the Fifa World Cup.
In terms of the contracts relevant to this matter, the nine
viewing stadia were to have been handed over in January
2010. On 28 January 2010 when the parties argued the
10 application for leave for appeal, Mr Jamie, who appeared for
the 1st Respondent was unable to indicate whether the stadia
had been handed over.

It is so that a judgment by the Supreme Court of Appeal will
15 have no practical effect for the parties to this application,
because the Fifa World Cup will be over. In any event, the
construction of the viewing stadia should already be complete.
To that extend, the issues are moot.

20 Even if another Court should uphold the proposed appeal and
set aside my earlier judgment, no practical effect would accrue
to the parties. However, that is not the end of the enquiry. I
have also considered whether, as the applicants argued, the
issues raised are such that it is in the public interest that the
25 Supreme Court of Appeal should pronounce on them.

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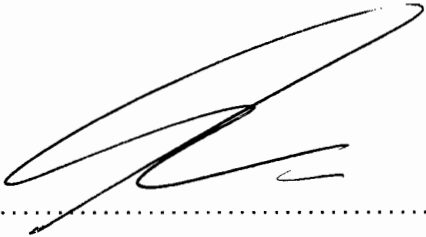
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The findings made in my earlier judgment were based on the particular facts found present in this matter and they do not raised issues as submitted by the applicants. The issues
5 raised in this matter are moot and do not involved issues of public interest as the concept is understood in relation to appeal proceedings. (See WESTERN CAPE EDUCATION DEPARTMENT AND ANOTHER v GEORGE 1998(3) SA 77 (SCA).)

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I am of the view, for the reasons set out above, that the proposed appeal does not enjoy reasonable prospects of success and leave to appeal must accordingly be refused.

15 The application FOR LEAVE TO APPEAL IS DISMISSED WITH NO ORDER AS TO COSTS.



A handwritten signature in black ink, consisting of a large, stylized 'J' followed by a horizontal line and a small flourish.

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BAARTMAN, J

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