

IN THE HIGH COURT OF SOUTH AFRICA
(WESTERN CAPE HIGH COURT, CAPE TOWN)

Case No. 2087/2008

In the matter between:

ANTON GARTH FINNERAN	First Applicant
GERDA ROSE MUSIKANTH (born Finneran)	Second Applicant
LIONEL FINNERAN	Third Applicant
EMMA JANE FINNERAN	Fourth Applicant
DANIEL FINNERAN	Fifth Applicant
BRYNN SOLOMON FINNERAN	Sixth Applicant
and	
PATRICIA JENNIFER FINNERAN (formerly JONES)	First Respondent
MORRIS STERN	Second Respondent
THE MASTER OF THE HIGH COURT	Third Respondent
In re: ESTATE LATE CECIL WESLEY FINNERAN	

**JUDGMENT: LEAVE TO APPEAL
DELIVERED ON 22 APRIL 2010**

DICKER AJ:

[1] The First Respondent seeks leave to appeal against the whole
of the judgment handed down by me in this matter on 25

August 2009 on the grounds as set out in the Application dated 15 September 2009.


- [2] Mr Albertus, appearing on behalf of the First Respondent, referred to these grounds and highlighted those aspects which he felt, in particular, warranted leave to appeal being granted.
- [3] During the course of argument reference was made to certain documents forming part of the record. I reserved judgment in order to consider the relevant portions of the record and the arguments presented. I have now had an opportunity of considering these documents and the relevant passages in the record and the arguments presented on behalf of the parties.
- [4] Mr Albertus urged me to grant the application for leave to appeal on the grounds set forth in paragraphs 1.1 to 1.5, 2 and 3 thereof, as, he submitted, the findings made by me and the legal principles applied by me were by and large issues in respect of which another court may come to a different conclusion. In particular, he emphasised that the evidence of the lay witnesses should have been preferred over the evidence of the medical experts.

[5] Ms Gordon-Turner appearing on behalf of the Applicants, opposed the application for leave to appeal on a number of grounds.

[6] I have carefully considered the arguments put forward on behalf of the parties and the relevant authorities referred to by them. I am of the view that there is no reasonable prospect that another court may come to a different finding and accordingly the Application for leave to appeal should be refused.

[7] I make the following order:

- (1) The Application for leave to appeal is refused, with costs.



T A DICKER
ACTING JUDGE OF THE HIGH COURT