



**IN THE HIGH COURT OF SOUTH AFRICA,
FREE STATE DIVISION, BLOEMFONTEIN**

Reportable:	NO/YES
Of Interest to other Judges:	NO/YES
Circulate to Magistrates:	NO/YES

Case Number: 950/2022

In the matter between:

KOOS NONYANE

1st Applicant

WILLIAM MOTIATSI

2nd Applicant

ANDRIES MOTSI

3rd Applicant

EUNICE NONYANE

4th Applicant

And

FIRST RAND BANK LTD t/a FIRST NATIONAL BANK

1st Respondent

PIETER WILLEM ADRIAAN RHEEDER

2nd Respondent

In re

FIRST RAND BANK LTD t/a FIRST NATIONAL BANK

Applicant

And

PIETER WILLEM ADRIAAN RHEEDER

Respondent

HEARD ON:

21 APRIL 2023

HEADS OF ARGUMENT FILED ON 4, 17 & 25 MAY 2023

JUDGMENT BY:

DANISO, J

DELIVERED ON:

This judgment was handed down electronically by circulation to the parties' representatives by email and by release to SAFLII. The date and time for hand-down is deemed to be 25 JULY 2023 at 12H00.

- [1] The applicants and the second respondent (Rheeder) seek leave to appeal to the full bench of this division alternatively the Supreme Court of Appeal against the whole judgments and orders delivered by Zietsman AJ on 12 August 2022 granting the first respondent's (FNB) provisional sequestration of Rheeder's estate and by Pohl AJ on 20 October 2022 confirming the provisional sequestration including the dismissal of the applicants' application to intervene in the sequestration proceedings (the main applications). The applicants and Rheeder's estate were respectively ordered to pay the costs.
- [2] The sequestration proceedings followed upon a default judgment obtained by FNB against Rheeder as surety and other defendants as co-sureties for unpaid mortgage loan over the farm Saamwerk situated in Wesselbron occupied by Rheeder, his family and his employees the applicants in this matter.
- [3] The premise of this application is that there is a reasonable possibility that the full bench of this division or the Supreme Court of Appeal would come to a different decision in that there are reasonable prospects of the appeal succeeding as contemplated in section 17(1)(a) of the Superior Courts Act 10 of 2013 in terms of which leave can only be granted where I am certain that the appeal would have a reasonable prospect of success.
- [4] I am not so convinced. I have considered the grounds of appeal as embodied in the notice of application for leave to appeal and find them to be a regurgitation of the averments made in the applicants' and Rheeder's affidavits and also the arguments presented in the main applications. I am of the view that the impugned judgments have adequately dealt with all the aspects raised in the

grounds of appeal. (See Zietsman, AJ's reasons for the orders made on ages 116 to 124 of the paginated court bundle and Pohl, AJ's reasons on pages 65 to 96.) I am aligning myself with the conclusions made in the main judgments based on these reasons, the application for leave to appeal stands to be dismissed.

ORDER

[5] In the result the following order is made:

1. The application for leave to appeal to the full bench of this division or Supreme Court of Appeal is dismissed with costs.

N.S. DANISO, J

For the applicants & 2nd Respondent:

Mr. HSL. Du Plessis
HSL Du Plessis Attorneys
C/O Blair Attorney
BLOEMFONTEIN.

For the first respondent:

Adv. M.P Van der Merwe(SC) with
Adv. S. Tsangarakis
Tonie O'Reilly Attorneys
C/O Symmington de Kok Inc.
BLOEMFONTEIN