



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

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

Case Number: 2547/2019

In the matter between:

RAZZMATAZZ CIVIL (PTY) LTD

1st Respondent / Plaintiff

CIVIL TECH CONSTRUCTION CC

2nd Respondent / Plaintiff

And

**THE MEC: FREE STATE PROVINCIAL
GOVERNMENT: DEPARTMENT OF POLICE,
ROADS AND TRANSPORT**

Applicant/Defendant

HEARD ON:

By agreement, this matter was disposed of without the hearing of oral arguments as provided for in s 19(a) of the Superior Courts Act 10 of 2013.

JUDGMENT BY:

DANISO, J

DELIVERED ON:

29 DECEMBER 2023

- [1] This is an opposed application for leave to appeal to the Supreme Court of Appeal or the full bench of this division against the judgment and the

consequent order that I delivered on 6 October 2023. In terms of the said order, I upheld the respondents' claim for idle construction equipment and interest for the late payment of the respondent's payment certificate rendered on 26 October 2016. The applicant was ordered to pay the costs.

- [2] The background facts of this matter are illustrated in my main judgment. I therefore deem it unnecessary to repeat them in this judgment.

- [3] The applicant's grounds of appeal are embodied in a lengthy ten-paged, 24 paragraphed notice of appeal which are essentially premised on the grounds that this court erred in its interpretation of the contracts governing the contractual relationship between the parties namely, the General Conditions of Contract for Construction Works (GCC) and also in its finding that based on the evidence proffered on behalf of the respondent, the applicant's liability was proven on a balance of probabilities.

- [4] The application is premised on the provisions of s17(1) (a) (i) of the Superior Courts Act¹ which are trite: leave to appeal can only be granted if I am persuaded that the appeal would have reasonable prospects of success. It was pointed out in *Ramakatsa and Others v African National Congress and Another*² that:

"...The test of reasonable prospects of success postulates a dispassionate decision based on the facts and the law that a court of appeal could reasonably arrive at a conclusion different to that of the trial court. In other words, the appellants in this matter need to convince this Court on proper grounds that they have prospects of success on appeal. Those prospects of success must not be remote, but there must exist a reasonable chance of succeeding. A sound rational basis for the conclusion that there are prospects of success must be shown to exist."

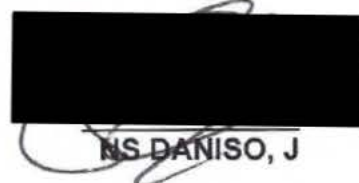
¹ Act 10 of 2013.

² [2021] ZASCA 31 (31 March 2021) para 10.

[5] I have had a careful and dispassionate regard to my judgment. I refrain from repeating my reasoning here. In essence, I am of the view that I have adequately dealt with all the aspects raised by the applicant in the grounds of appeal and having regard to what is deliberated in my judgment I am not persuaded that the issues raised by the applicant in this application have substance and that the appeal has any reasonable prospect of success. The application for leave to appeal stands to be dismissed.

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

1. The application for leave to appeal is dismissed with costs.



NS DANISO, J

For the applicant: Adv. N A Cassim

Instructed by: The State Attorney
BLOEMFONTEIN

For the respondents: Adv. S Grobler (SC)

Instructed by: Graham Attorneys
Bloemfontein