



**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: 3670/2022

In the matter between:

ELIZABETH SOPHIA TERBLANCHE

1st Applicant

**THE TRUSTEES FOR THE TIME BEING OF THE
BLOOMPLAATS TRUST, IT28/95**

2nd Applicant

And

JACOBUS DU PLESSIS OOSTHUIZEN

Respondent

HEARD ON:

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

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- [1] The first applicant seeks leave to appeal to the full bench of this division against the judgment and order I handed down on 4 July 2023 in terms of which I dismissed with costs the applicants' application to hold the respondent in contempt of the court interdict granted on 18 August 2022. In terms of the said court interdict, the respondent was ordered to refrain, pending the finalisation

of the action involving the parties from utilising the route between farm Gedagtenis and the S74 road.

[2] In the grounds of appeal, the first applicant essentially asserts that this court erred in its finding that:

2.1. the first applicant had failed to prove that the respondent was in contempt of the court;

2.2. the applicant was disentitled to the interdict she had sought; and

2.3. the respondent established genuine disputes of fact worthy to be accepted for the determination of the dispute between the parties.

[3] The basis of the first applicant's contention is that on the papers, the respondent had not placed in dispute the existence of the court order and its validity. In fact, he had admitted that on the day in question he exited the Gedagtenis and travelled for 80 meters of that route. The respondent also admitted that:

- 'a. *He stopped closed to the first applicant with his bakkie;*
- b. *She did not move away and he used his bakkie hooter;*
- c. *The first applicant did not move away;*
- d. *The first applicant's back was facing his vehicle;*
- e. *She backed up against his vehicle;*
- f. *She stood against his vehicle; and*
- g. *The respondent slowly at a crawling speed moved slightly forward, the first applicant walked forward and fell down and started screaming."*

[4] It is thus the first applicant's case that another court would find that she had proved the respondent's contempt beyond a reasonable doubt.

[5] The principles governing applications for leave to appeal are trite and have been extensively referred to by the parties in their respective heads of

argument, I therefore deem it unnecessary to rehash them here except to highlight that in terms of section 17(1)(a) of the Superior Courts Act 10 of 2013, I am enjoined to grant leave to appeal only where I am certain that there are reasonable prospects of the appeal succeeding, there is in fact a reasonable possibility that another court would come to a different conclusion.

- [6] As correctly pointed out by the respondent in his opposition, he only admitted to being on the side of his own his farm cutting trees and in order to access the trees he had to be on the other side of his property which is by the route. At no stage did he travel on that route. Furthermore, nowhere in the court interdict is it stated that the respondent was prohibited from accessing the portion of his own property situated on that route. He was merely prohibited from utilizing that route to travel between farm Gedagtenis and the S74 road.
- [7] Assault involves the intentional conduct which results in another person sustaining an injury to their bodily integrity. (*Snyman Criminal Law*, 5th Edition at page 455). None of the factors listed by the first applicant in her grounds of appeal constitute an admission to assault in the respondent's answering affidavit.
- [8] I have dispassionately considered all the grounds of appeal including the heads of argument. I am of the view that I have adequately dealt with all the issues raised in the grounds of appeal in my judgment and I am not persuaded that they warrant a hearing of an appeal. There are no reasonable prospects of this appeal succeeding and there are also no compelling reasons why the appeal should be heard.
- [9] In the result, I make the following order:
1. The application for leave to appeal is dismissed with costs.



N S DANISO, J

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