



**IN THE HIGH COURT OF SOUTH AFRICA
(GAUTENG DIVISION, PRETORIA)**

Case No: 49156/2021

In the matter between:

COMPENSATION COMMISSIONER

1ST APPLICANT

**DIRECTOR-GENERAL, DEPARTMENT
LABOUR**

2ND APPLICANT

THE MINISTER OF LABOUR

3RD APPLICANT

and

COMPENSATION SOLUTIONS (PTY) LTD

RESPONDENT

DELETE WHICHEVER IS NOT APPLICABLE

- (1) REPORTABLE: YES ☒ NO
(2) OF INTEREST TO OTHER JUDGES: YES ☒ NO
(3) REVISED.

DATE 16 March 2021

JUDGMENT

HF JACOBS, AJ:

[1] This is an application for leave to appeal an order upholding the exceptions noted by the respondent to two special pleas of prescription

raised by the applicants. The principles applicable to applications for leave to appeal are set out in *Hunter*¹.

[2] The grounds upon which leave to appeal is sought against the order upholding the exception in respect of the first special plea of prescription based on sections 43 and 44 of the COIDA are without any merit. Those points have been decided on by our courts on more than one occasion. I am not of the opinion that the appeal against the order granted in that regard has any prospect of success or that any other compelling reason exist why leave to appeal should be granted to the applicants.

[3] The main judgment explains why the second special plea lacks essential averments concerning the plea of prescription. Pleadings serve important functions in civil litigation namely to inform an opponent of the case to be met and to set out, for the convenience of the court, sufficient allegations of fact to distil the *facta probanda*. The applicants' pleading falls foul of the required standard. In my opinion the proposed appeal has no prospect of success and there exist no compelling reason why leave to appeal should be granted.

[4] The application for leave to appeal is refused with costs.

¹ *Hunter v Financial Services Board* 2017 JBR 0941 (GP); *Caratco (Pty) Ltd v Independent Advisory (Pty) Ltd* 2020 (5) SA 35 (SCA); *Minister of Justice and Constitutional Development and Others v Southern Africa Litigation Centre and Others* 2016 (3) SA 317 (SCA);



H F JACOBS
ACTING JUDGE OF THE HIGH COURT
GAUTENG DIVISION, PRETORIA

Delivered: This judgment was handed down electronically by circulation to the parties' legal representatives by e-mail. The date and time for hand-down is deemed to be 14h00 on the 18th March 2024.

APPERANCES

Counsel for applicants: Adv M Makhubela
 Adv M S Netso

Attorneys for defendants/respondents: State Attorney

Counsel for plaintiff/excipient: Adv E J J Nel

Attorneys for plaintiff/excipient: Quiryn Spruyt Attorneys