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

Reportable: NO

Of Interest to other Judges: NO

Circulate to Magistrates: NO
case no: **4648/2023**

In the application for leave to appeal of:

NATHANE SOULMAN NAKEDI

1st Applicant

**ANY FURTHER UNLAWFUL OCCUPIERS
OF UNIT 23 THORA'S PLACE, VAN
BLERK STREET STERLING SMALL
HOLDINGS, DISTRICT BLOEMFONTEIN,
FREE STATE PROVINCE**

2nd Applicant

And

WELCOME NORMAN JACOBS N.O.

1st Respondent

(in his capacity as the liquidator of
Two Fine Commodities (Pty) Ltd (in liquidation))

MANGAUNG METROPOLITAN MUNICIPALITY

2nd Respondent

In re:

WELCOME NORMAN JACOBS N.O.

Applicant

(in his capacity as the liquidator of
Two Fine Commodities (Pty) Ltd (in liquidation))

And

NATHANE SOULMAN NAKEDI

1st Respondent

**ANY FURTHER UNLAWFUL OCCUPIERS OF
UNIT 23 THORA'S PLACE, VAN BLERK
STREET STERLING SMALL HOLDINGS,
DISTRICT BLOEMFONTEIN,
FREE STATE PROVINCE**

2nd Respondent

MANGAUNG METROPOLITAN MUNICIPALITY

3rd Respondent

CORAM:

JP DAFFUE J

DELIVERED ON:

22 April 2024

APPLICATION FOR LEAVE TO APPEAL

INTRODUCTION

[1] On 30 January 2024 I granted an order on behalf of the liquidator of Two Fine Commodities (Pty) Ltd for the eviction of Nathane Soulman Nakedi and all other unlawful occupiers occupying the property through him. In terms of the order they had to vacate the property on/or before 31 March 2024.

[2] On 20 February 2024 Mr Nakedi and unidentified unlawful occupiers filed an application for leave to appeal. There is indication whether leave is sought to appeal to the full bench of this division or the Supreme Court of Appeal. On 1 March 2024 I requested my secretary to communicate with the parties in order to obtain a suitable date for the hearing of the application. On the same day the liquidator's Bloemfontein attorneys of record indicated that he would not be opposing the application. No response was received from Mr Nakedi or his attorneys. On 25 March 2024 my secretary sent another email to Mr Nakedi's legal representatives. The email correspondence is annexed hereto as annexure A. Notwithstanding the

request that I should be informed as to which of the new dates provided might suit them, no response was received. Therefore, I decided to adjudicate the application in chambers.

[3] I reiterate that the liquidator's decision not to oppose this application is not relevant to the outcome of the application. He is free to abandon the judgment and/or apply for the rescission thereof.

[4] I do not intend to deal with any of the grounds of appeal insofar as I am of the view that nothing new needs my attention. I dealt fully in my judgment with each and every issue raised in the application for leave to appeal.

[5] I am satisfied that leave to appeal should be dismissed as the appeal would have no reasonable prospect of success. Also, there is no other compelling reason why it should be heard by a court of appeal.

[6] Consequently, the following order is made:

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

JP DAFFUE J

On behalf of the Applicants: No appearance (application for leave to appeal filed by Maweza Nkogatsi Inc Attorneys c/o Motaung Attorneys)

On behalf of Respondents: No appearance

Judge-Johannes Daffue

From: Ronel Matthysen
Sent: Monday, 25 March 2024 12:18
To: [k\[...\]@gmail.com](mailto:k[...]@gmail.com); e[...]@gmail.com
Subject: FW: Leave to appeal:- 4648/2023 - NS Nakedi v Any further unlawful occupiers property 23 Thoras Place, Van Blerk Street, Sterling Small Holding, Bfn FS & 2 others

Importance: High

Dear Gentlemen

I refer to my email of 1 March 2024.

You are aware of the fact that the liquidator has decided not to oppose the application for leave to appeal. That does not mean that leave to appeal should be granted automatically.

Daffue J intends to hear the application on any of the following days at 08h30, to wit 2, 3, 8, 9 or 10 April 2024.

Please confirm urgently before 25 March which of these days will suit you.

If none of these dates suit you, the judge will consider the application in chambers on 2 April 2024.

Regards

Mrs Ronel Matthysen
Judge Secretary to

r[...]@outlook.org.za;

Importance: High

We refer to the above matter and your e-mail below

Dear all

I have been instructed by Daffue J to communicate with you about the above application for leave to appeal. The application shall be set down for hearing on either 11, 12, 13, 19, 20, 22, 26 or 27 March 2024 at 09h00. It is expected that arguments could be presented within 30 minutes.

The judge will consider hearing the matter virtually on MS-Teams only if the parties have uninterrupted wifi facilities. If the parties cannot agree on a suitable date and time slot, the judge will consider the application in chambers on 19 March 2024 in which event the parties will be allowed an opportunity to file additional heads of argument by not later than 13 March 2024 at 12h00.

If any party has an objection to the suggested procedure to be followed, their written reasons shall be conveyed to me.

Please acknowledge receipt and revert to me urgently on/or before **7 March 2024**.

Kind regards

Mrs Ronel Matthysen

Judge Secretary to

(JP DAFFUE, J)

FS High Court, Bloemfontein

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