

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

Case No: **5821/2021**

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

In the matter between:

HIGHWAY JUNCTION (PTY) LTD

First Applicant

**SWINBURNE VILLAGE HOME OWNERS
ASSOCIATION NPC**

Second Applicant

SWINBURNE STORE CC

Third Applicant

and

DI-THABENG TRUCK AND TAXI (PTY) LTD

First Respondent

DI-THABENG LOGISTICS (PTY) LTD

Second Respondent

DI-THABENG FINANCE (PTY) LTD

Third Respondent

DI-THABENG FUEL SUPPLY (PTY) LTD

Fourth Respondent

DI-THABENG FUEL MANAGEMENT (PTY) LTD

Fifth Respondent

MEMBER OF THE EXECUTIVE COUNCIL, FREE STATE

**PROVINCIAL DEPARTMENT OF ECONOMIC, SMALL
BUSINESS DEVELOPMENT, TOURISM AND
ENVIRONMENTAL AFFAIRS**

Sixth Respondent

MALUTI-A-PHOFUNG LOCAL MUNICIPALITY

Seventh Respondent

**THE MINISTER OF WATER
AND SANITATION**

Eighth Respondent

**THE MINISTER OF MINERAL RESOURCES
AND ENERGY**

Ninth Respondent

THE CONTROLLER OF PETROLEUM PRODUCTS

Tenth Respondent

CORAM: ZIETSMAN P, AJ

DELIVERED ON: 25 AUGUST 2022

This judgment was handed down electronically by circulation to the parties' representatives by email. The date and time for hand-down is deemed to be 15:00 on 25 August 2022

[1] In the aforementioned matter, I delivered judgment on **27 July 2022** by issuing an order against the First to Fifth Respondents as follows:

“1. The First to Fifth Respondents are interdicted and/or restrained from using the property, known as Portion [...] of the Farm Franshoek No [...], S[...], Free State Province, for any uses other than agricultural, and the parking of trucks, until:

1.1 the use of the land had been changed in terms of the provisions of the Spatial Planning and Land Use Management Act, 16 of 2013 and/or the Municipal Planning By-law of 2015 read with the Town Planning Scheme 51969.

2. Each party to pay its own costs.”

[2] Both the original Applicants as well as the original First to Fifth Respondents filed applications for leave to appeal:

2.1 The original Applicants against the refusal of further interdictory relief that they sought;

2.2 The First to Fifth Respondents against the order that I did issue as referred to above.

[3] Mindful of the test in applications for leave to appeal, that a reasonable possibility exists that another Court would come to another decision, and mindful of the fact that I have attached various interpretations to regulatory / legislative enactments, I am of the view that I should grant leave to appeal to the Supreme Court of Appeal, in the matter concerned, and that the aforementioned appeal needs the attention of the Supreme Court of Appeal.

I THEREFORE MAKE THE FOLLOWING ORDER:

1. Leave to appeal against the whole of the judgment is granted to the Supreme Court of Appeal;
2. The First to Fifth Respondents' application is to be regarded as the main appeal and the original Applicants' appeal as the cross-appeal;
3. Costs of the application for leave to appeal will be costs in the appeal.

P ZIETSMAN, AJ

On behalf of the Applicants:

Adv HJ De Waal SC

Adv JS Rautenbach

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