



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

CASE NO: 36023/2021 & 36024/2021

DELETE WHICHEVER IS NOT APPLICABLE

(1) REPORTABLE: NO.

(2) OF INTEREST TO OTHER JUDGES: NO

(3) REVISED.

DATE: 20 July 2022

SIGNATURE

In the matter between:

**ZIMELE INVESTMENT ENTERPRISE
COMPANY (PTY) LTD**

Applicant

and

SOUTH AFRICAN NATIONAL ROADS AGENCY LTD

First Respondent

TELEGENIX TRADING 799 (PTY) LTD

Second Respondent

SERVEST FACILITY SERVICES (PTY) LTD

Third Respondent

**DNA CONSULTING ENGINEERS &
PROJECT MANAGERS**

Fourth Respondent

J U D G M E N T

(In the applications for Leave to Appeal and to Cross-Appeal)

This matter has been heard by way of a virtual hearing and disposed of in the terms of the Directives of the Judge President of this Division. The judgment and order are accordingly published and distributed electronically.

DAVIS, J

- [1] In this matter the originally cited third respondent (Telegenix) sought leave to appeal and the original applicant (Zimele) subsequently applied for leave to cross-appeal the judgment of this court dated 14 April 2022. The parties have convinced me that such leave should be granted and, after debate, I am of the view that leave to appeal and to cross-appeal should be granted to a full court of this division in terms of Section 17(6)(a) of the Superior Courts Act 10 of 2013.

- [2] SANRAL, who has otherwise abided the decision of this court, however opposed Zimele's application to cross-appeal the costs order granted in respect of the subsequent abandoned Part A of the main application. This was wherein Zimele initially sought an interdict in a somewhat belated urgent application. SANRAL was joined in argument by Telegenix to the effect that the costs order was correctly granted, was as a result of the exercise of this court's discretion and that such exercise was not properly or sufficiently attacked by Zimele in its notice of application for leave to cross-appeal. I have listened to argument on this topic and agree with Telegenix and SANRAL that the threshold for leave to appeal an exercise of a discretion had not been met and that there are no other compelling reasons why such leave should be granted.

- [3] Order in both 36023/2021 and 36024/2021:
 - 1. The applications for leave to appeal and to cross-appeal the judgment and orders of this court of 14 April 2022, save for paragraph 6.1 of those orders, are granted.

2. Leave to appeal and to cross-appeal shall be to the full court of this division.
3. Costs of the applications for leave to appeal and to cross-appeal shall be costs in the appeals.


N DAVIS
Judge of the High Court
Gauteng Division, Pretoria

Date of Hearing: 19 July 2022

Judgment delivered: 20 July 2022

APPEARANCES:

Case no: 36023/2021

For the Applicant:	Adv T D Prinsloo
Attorney for the Applicant:	Lowndes Dlamini Inc, Santon c/o Riaan Bosch Attorney, Pretoria
For the 1 st Respondent:	Adv S Scott
Attorneys for the 1 st Respondent:	Goitseona Pilane Attorneys, Pretoria
For the 2 nd Respondent:	Adv M Collins SC
Attorneys for the 2 nd Respondent:	Dukhi Attorneys, Durban c/o Wiese & Wiese Inc., Pretoria

Case no: 36024/2021

For the Applicant:

Adv T D Prinsloo

Attorney for the Applicant:

Lowndes Dlamini Inc, Santon
c/o Riaan Bosch Attorney, Pretoria

For the 1st Respondent:

Adv S Scott

Attorneys for the 1st Respondent:

Dube N Attorneys, Johannesburg
c/o Shabangu Attorney, Pretoria

For the 2nd Respondent:

Adv M Collins SC

Attorneys for the 2nd Respondent:

Dukhi Attorneys, Durban
c/o Wiese & Wiese Inc., Pretoria