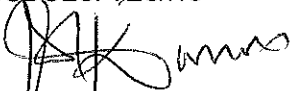


**IN THE HIGH COURT OF SOUTH AFRICA
GAUTENG DIVISION, PRETORIA**

(1) REPORTABLE: YES <u>NO</u>
(2) OF INTEREST TO OTHER JUDGES: YES/NO
(3) REVISED: YES/NO
07/09/2022 DATE
 SIGNATURE

**IN THE HIGH COURT OF SOUTH AFRICA
[GAUTENG DIVISION, PRETORIA]**

CASE NO: 2937/21

In the matter between:-

WILLEM FRANCOIS BOUWER NO.

(in his capacity as appointed co-curator *bonis* of

JHJ VAN DYK, reference: NC751/2017

First Applicant

ANALI CHRISTELLE BASSON NO.

(in her capacity as appointed co-curator *bonis* of

JHJ VAN DYK, reference: NC751/2017

Second Applicant

and

THE MASTER OF THE HIGH COURT, PRETORIA

Respondent

JUDGMENT

SKOSANA AJ

[1] This judgment relates to the application for leave to appeal brought by the applicants. I have already indicated to the parties that I am inclined to grant the application. My reasons are shortly the following:

[1.1] As indicated in my main judgment, the matter involves fairly complex legal issues as well as an important principle that affects the whole curatorship industry.

[1.2] It was pointed out to me that there are several judgments in other Divisions which have dealt with the interpretation of the phrases 'income' and 'proceeds' in various contexts. As advanced by the argument of Mr Oosthuizen, such interpretation may be in conflict with my reasoning in this judgment.

[1.3] Regulations 7 & 8 of the Administration of Estates Regulations (1972) provide for transfers from the capital account to the income and expenditure account. This complicates the interpretation of the phrase 'income collected' on which, the applicants' case rested. This matter raises the very question as to when must such capital be regarded as having been converted into income.

[2] It is on the basis of the above that I find that there is a possibility that another court would find differently.

[3] I am also convinced that there are sufficient grounds to grant this appeal to the Supreme Court of Appeal. As indicated above, there are already varying interpretations of the phrases that came under spotlight in this case. Second, as the issue affects the whole industry, it is important that a proper interpretation be accorded by the Supreme Court of Appeal to avoid further conflicting judgments from Provincial Divisions.

4. In the circumstances, I grant the following order:

[1] Leave to appeal is granted to the Supreme Court of Appeal.

[2] The costs of this application are costs in the appeal.



DT SKOSANA
Acting Judge of the High Court