



IN THE HIGH COURT OF SOUTH AFRICA

(GAUTENG DIVISION, PRETORIA)

DELETE WHICHEVER IS NOT APPLICABLE

(1) REPORTABLE: ~~YES~~ / NO.

(2) OF INTEREST TO OTHER JUDGES: ~~YES~~ / NO.

☒ REVISED.

24/4/2017.
DATE


SIGNATURE

24/4/2017

Case Number: 44095/2012

In the matter between:

THE DEPARTMENT OF TRANSPORT

First Applicant

THE DIRECTOR-GENERAL: DEPARTMENT OF

TRANSPORT

Second Applicant

THE MINISTER OF TRANSPORT

Third Applicant

WERNER EDUARD KOEKEMOER

Fourth Applicant

ROAD TRAFFIC MANAGEMENT CORPORATION

Fifth Applicant

COLLINS LETSOALO

Sixth Applicant

KEVIN JOSHUA KARA-VALA

Seventh Applicant

MORNÉ GERBER

Eighth Applicant

GILBERTO MARTINS

Ninth Applicant

CHRIS HLABISA

Tenth Applicant

MAKHOSINI MSIBI

Eleventh Applicant

and

TASIMA (PTY) LTD

Respondent

JUDGMENT: APPLICATION FOR LEAVE TO APPEAL

POTTERILL J

- [1] The first, second, third, sixth, seventh, tenth and eleventh applicants ("applicants") are applying for leave to appeal to the Full Bench against paragraphs 12, 13, 14, 15, 18, 19 and 21 of the judgment and paragraphs 23.1, 23.2 and 23.4 of the orders granted by this court.

- [2] In essence the appeal revolves around whether the applicants had to perform in terms of the court orders up to the *"guillotine date"* of 9 November 2016; date of the Constitutional Court order or on 23 June 2015; the date of the granting of the counter-application by Hughes J.
- [3] I am unconvinced that another court will differ from this finding. Both dates are relevant; 23 June 2015 is the date that the parties had no further contractual obligations. The 9th of November 2016 is the date up to which all court orders must constitutionally be complied with. I am satisfied that the majority judgment of the Constitutional Court clearly distinguishes between these two principles and that in this judgment these principles have been adhered to.
- [4] I ordered the approval of all PRQ's and site sign-offs dated before 9 November 2016 within three (3) days from the date of the order. I am satisfied that another court will not come to a different conclusion. On the papers the applicants herein set out no facts as to why these PRQ's and site sign-offs could not be approved and was not correct. The correctness of the PRQ's and site sign-offs were thus not in dispute. Furthermore, all the previous orders, also those made by agreement between the parties, were ordered on this basis without any problematic consequences.
- [5] The application for leave to appeal is accordingly dismissed with costs.



S. POTTERILL

JUDGE OF THE HIGH COURT

CASE NO: 44095/2012

HEARD ON: 20 April 2017

FOR THE 1st-3rd, 6th and 9th APPLICANTS : ADV. J.A. MOTEPE SC

INSTRUCTED BY: STATE ATTORNEY

FOR THE 5th and 11th APPLICANTS: ADV. J.A. MOTEPE SC

INSTRUCTED BY: Selepe Attorneys

FOR THE RESPONDENT: ADV. A.E. FRANKLIN SC AND ADV. J.P. MCNALLY SC

INSTRUCTED BY: Webber Wentzel Attorneys

DATE OF JUDGMENT: 24 April 2017