



IN THE HIGH COURT OF SOUTH AFRICA
GAUTENG DIVISION, PRETORIA

DELETE WHICHEVER IS NOT APPLICABLE

(1) REPORTABLE: YES/NO. ☒ YES

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

(3) REVISED. ☐

09/03/2015

SIGNATURE

49279/2013.
Case No: 49279/2013
Date heard: 09 March 2015
Date of judgment: 09 March 2015

In the matter between:

BMI BUILDING MAINTENANCE INSTALLATIONS CC

Applicant
(1st Claimant)

and

JACOBUS EVERHARDUS BOUWER N.O.

First Respondent
(First Applicant)

SAMUEL JOHANNES FOURIE N.O.

Second Respondent
(Second Applicant)

ANTHONY PETER BROWN N.O.

Third Respondent
(Third Applicant)

DR GERHARDUS JOACHIM DEKKER

Fourth Respondent
(Fourth Applicant)

**TRULY INNOVATIVE CONSTRUCTION CC
(IN LIQUIDATION)**

Fifth Respondent
(Fifth Applicant)

In re:

JACOBUS EVERHARDUS BOUWER N.O.

First Applicant

SAMUEL JOHANNES FOURIE N.O.

Second Applicant

ANTHONY PETER BROWN N.O.

Third Applicant

DR GERHARDUS JOACHIM DEKKER

Fourth Applicant

And

BMI BUILDING MAINTENANCE INSTALLATIONS CC

First Claimant

TRULY INNOVATIVE CONSTRUCTION CC

Second Claimant

(IN LIQUIDATION)

LEAVE TO APPEAL JUDGMENT

A.M.L. PHATUDI J:

[1] Having heard both counsel for the parties it is clear if not trite that the test for application for leave to appeal is whether the applicant had a reasonable prospect of success on appeal.

[2] Mr Da Silva, counsel for the applicant, submits that the core issue here is that the court erred by not referring the matter to trial due to the

dispute of fact that existed, as alleged on the papers and during the hearing.

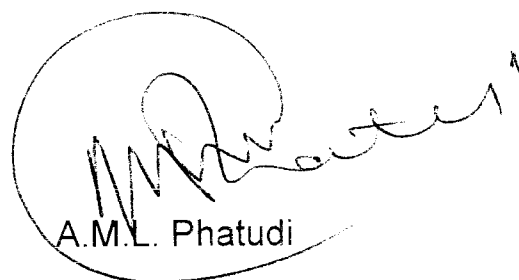
[3] The issue of the dispute of fact has been dealt with at the hearing *quo* and are dealt with there in my judgment. As a result I am reluctant to re-write the judgment on that aspect.

[4] Considering the submissions made, I am of the view that there are no prospects of success on appeal.

As a result, I make the following order.

Order:

1. Leave to appeal is dismissed with costs.



A.M.L. Phatudi

Judge of the High Court

On behalf of the Applicant:

(1st Claimant)

Werda Fourie Inc.

1102 Naguil Street

Montana Park

Pretoria

Adv. Da Silva

Adv. Visser

On Behalf of 1 – 4 respondents:

Potgieter – Marais Attorneys

1019 Francis Baard Street

Hatfield

Pretoria

Adv. Van Rensburg

On behalf of the 5th Respondent:

(2nd Claimant)

Schabort Inc

40 Weavind Street

Colbyn

Pretoria

Adv. Maritz