

IN THE HIGH COURT OF SOUTH AFRICA

(CAPE OF GOOD HOPE PROVINCIAL DIVISION)

CASE NO:

7567/2008

DATE:

6 NOVEMBER 2008

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In the matter between:

DAVID EDWARD LE ROUX

APPLICANT

Versus

DIRKDALE INVESTMENTS (PTY) LTD

1st RESPONDENT

PIETER LOUIS MORRIS

2nd RESPONDENT

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LINDA ELIZABETH PASLEY

3rd RESPONDENT

JUDGMENT

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MAQUBELA A.J.

I have read the affidavits in support of the applications, and I have listened to your arguments, both of you.

20 It is always, I guess, an easy matter in an application for leave to appeal to just simply say refused or granted, but an issue has been raised here for me to refuse the leave to appeal on claim A and then granting it on claim B, which is

some kind of compromise, so to speak. Indeed for my part, I am convinced that the judgment on claim A is a sound one. I have read all the papers to just make sure that I understood, firstly, the issues that were raised during the trial and I am convinced that at least the judgment that I had arrived at was the only possibility, given the circumstances and the facts and the argument of the case before me.

But because, obviously, legal contestation is not a mathematical equation strictly speaking, you will always find that there are varying approaches to one single issue, I agree with the approach that a different Court may arrive at a different decision on claim B, on claim A I do not think I need to grant leave there; so the order then would be that leave to appeal on claim A is REFUSED and leave to appeal on claim B is GRANTED



MAQUBELA A.J.