



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 (3) REVISED DATE: 23 May 2024 SIGNATURE: [REDACTED]
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Case No. 49134/2013

In the matter between:

FELIX, JOSE AMERICO GONCALVES

1st APPLICANT

FELIX, MARIA JUDITE PESTANA

2ND APPLICANT

And

NEDBANK LIMITED

1ST RESPONDENT

SHERIFF OF THE COURT

2nd RESPONDENT

Coram: Millar J

Heard on: 23 May 2024

Delivered: 23 May 2024 - This judgment was handed down electronically by circulation to the parties' representatives by email, by being uploaded

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to the *CaseLines* system of the GD and by release to SAFLII. The date and time for hand-down is deemed to be 11h00 on 23 May 2024.

ORDER

It is Ordered:

- [1] The application for leave to appeal is refused with costs on the scale as between attorney and client.

JUDGMENT

MILLAR J

- [1] This is an application for leave to appeal brought by the applicants against the dismissal of an urgent application for the granting of an interim interdict with punitive costs on 15 May 2024.
- [2] The test for granting leave to appeal The test for the granting of leave to appeal pertinent to the present matter is set out in section 17(1) of the Superior Courts Act¹ as follows:

“(1) Leave to appeal may only be given where the judge or judges concerned are of the opinion that

(a) (i) the appeal would have a reasonable prospect of success or

¹ 10 of 2013.

(ii) there is some other compelling reason why the appeal should be heard, including conflicting judgments on the matter under consideration"

[3] I have considered the grounds upon which the application has been brought and the reasons given by me for the judgment. I have also considered the submissions made by counsel for the granting of leave to appeal on the part of the applicant and those opposing the granting of leave to appeal on behalf of the first respondent.

[4] I am not persuaded that another court would come to a different conclusion or that there is some other compelling reason why leave to appeal should be granted.

[5] The costs follow the result.

[6] In the circumstances, I make the following order:

[6.1] The application for leave to appeal is refused with costs on the scale as between attorney and client.


A MILLAR
JUDGE OF THE HIGH COURT
GAUTENG DIVISION, PRETORIA

HEARD ON:

23 MAY 2024

JUDGMENT DELIVERED ON:

23 MAY 2024

COUNSEL FOR THE APPLICANTS:

INSTRUCTED BY:

REFERENCE:

ADV. I MURERIWA

GARY SEGAL ATTORNEYS

MR. G SEGAL

COUNSEL FOR THE FIRST RESPONDENT: ADV. D VAN NIEKERK

INSTRUCTED BY:

REFERENCE:

ENDERSTEIN MALUMBETE INC

N MALUMBETE-MALULEKE

NO APPEARANCE FOR THE SECOND RESPONDENT