

REPUBLIC OF SOUTH AFRICA



IN THE HIGH COURT OF SOUTH AFRICA

GAUTENG DIVISION, PRETORIA

CASE NO.: 1930/2021

(1) REPORTABLE: YES/NO
(2) OF INTEREST TO OTHER JUDGES/NO
(3) REVISED: NO [REDACTED]

Date: 7 August 2024 E van der Schyff

In the matter between:

Kalipa Kagiso Mangaliso Mafungo

Applicant

and

Dr. Mothobi Godfrey Keele

Respondent

In re:

Dr. Mothobi Godfrey Keele

Applicant

and

Legal Practice Council

First Respondent

Kalipa Kagiso Mangaliso Mafungo

Second Respondent

Sheriff Pretoria Central

Third respondent

JUDGMENT: Application for Leave to Appeal

Van der Schyff J

Introduction

- [1] The applicant, Mr. Mafungo, applies for leave to appeal the judgment and order handed down by me on 2 August 2024.
- [2] The notice of the application for leave to appeal stipulates the ground for the appeal. Mr. Mafungo filed heads of argument elaborating on the grounds stipulated in the notice.
- [3] The first ground of appeal is that I erred in fact and in law in finding that the notice of appeal filed on 11 September 2023 suspended the operation and execution of the order handed down by Sardiwalla J on 7 September 2022. Mr. Mafungo clarified this ground of appeal by qualifying in the heads of argument “specifically in relation to the taxation of the 29th of November 2023.”
- [4] After an initial misunderstanding, I pointed out to Mr. Mafungo that I never found that the application for leave to appeal, filed by Dr. Keele against the judgment handed down by Sardiwalla J, affected the right to have the bill of costs taxed. In paragraph 6 of the judgment, I stated:

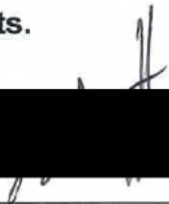
‘Whether there is merit in the contention that it is irregular to set down a taxation while an application for leave to appeal is pending is beside the point.’
- [5] As for the contention that the execution and operation of Sardiwalla J’s judgment and order were not suspended by the filing of an application for leave to appeal, such contention is wrong. Sardiwalla J’s judgment and order was not an interlocutory order, it was a final order, and section 18(1) of the Superior Courts Act 10 of 2013 applies. But, as I stated, this is beside the point.
- [6] I have considered the remainder of the grounds of appeal raised by Mr. Mafungo, and I am of the opinion that the jurisdictional requirements to succeed with an

application for leave to appeal have not been met. The application stands to be dismissed.

ORDER

In the result, the following order is granted:

- 1. The application for leave to appeal is dismissed with costs.**




E van der Schyff
Judge of the High Court

Delivered: This judgment is handed down electronically by uploading it to the electronic file of this matter on CaseLines.

For the applicant:

Mr. K. Mafungo

Instructed by:

Mafungo Attorneys

For the respondent:

In person

Date of the hearing:

7 August 2024

Date of judgment:

7 August 2024