



**IN THE HIGH COURT OF SOUTH AFRICA,
FREE STATE DIVISION, BLOEMFONTEIN**

Reportable:	NO
Of Interest to other Judges:	NO
Circulate to Magistrates:	NO

Case No: 5348/2021

In the matter between:

WELKOM UNITED TAXI ASSOCIATION	1st Applicant
TSUKULU JOEL MATLATSA	2nd Applicant
KGATELOPELE TAXI ASSOCIATION	3rd Applicant
and	
MAJAKATHATA LONG DISTANCE TAXI ASSOCIATION	1st Respondent
(ODENDAALSRUS MAJAKATHATA LONG DISTANCE TAXI ASSOCIATION)	
MOHAHLAULA TAXI ASSOCIATION AND OTHERS	2nd Respondent
(ODENDAALSRUS)	
MEC: DEPARTMENT OF POLICE, ROADS, AND TRANSPORT AND OTHERS	3rd Respondent
FREE STATE PROVINCIAL REGULATORY AUTHORITY	4th Respondent
FREE STATE TRANSPORT REGISTRAR	5th Respondent
MATJHABENG LOCAL MUNICIPALITY	6th Respondent

HEARD ON: Matter disposed of without oral hearing in terms of section 19(a) of the Superior Court Act 10 of 2013.

JUDGMENT BY: MHLAMBI, J

DELIVERED ON: 20 AUGUST 2024

APPLICATION FOR LEAVE TO APPEAL

- [1] On 30 October 2023, I granted prohibitory and mandatory interdicts against the respondents and an order that the first and second respondents pay the costs of the application, jointly severally the one paying the other to be absolved. It these orders that the first respondent is appealing against.
- [2] The grounds of appeal are stated as follows in the notice of application for leave to appeal:
- 2.1 The learned judge erred in granting the interdict sought as no court can grant an interdict on the event or incident (alleged or otherwise) that has already taken place.
- 2.2 The learned judge erred in granting the orders sought by the applicant when the applicants have dismally failed to indicate to court when did the alleged unlawful acts occur.
- 2.3 The learned judge erred in failing to apply the elementary principles in our jurisprudence; the applicant stands and falls on its founding papers.
- 2.1 Learned judge erred in finding that the applicants operated legally with ad hoc licenses in terms of the Free State Transport Act.
- 2.5 The learned judge erred in applying the basic tenets of *Plascon-Evans*. Upon the judge rejecting the admission of the applicant's replying affidavit, the judge ought to have applied the principle set out in *Plascon-Evans*.
- 2.6 The learned judge erred and failed to properly deal with the evidence placed before him in arriving at the correct decision.

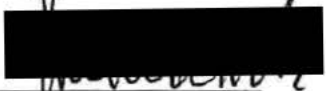
- 2.7 The judge erred in finding that the respondent tendered bare denials in respect of the alleged "*serious allegations*" or wrong doing allegedly perpetrated by its members.
- 2.8 The judgment and orders granted by the court are with respect incongruent, bad in law and fact as they cannot be implemented consistent with the doctrine of effectiveness.
- 2.9 First respondent hereby reserves that right to file further grounds of appeal as and when a need to do so arises.
- [3] The appeal is predicated on section 17(1)(a)(i) and (ii) of the Superior Courts Act which provides that leave to appeal may only be given where the judge or judges concerned are of the opinion that the appeal would have a reasonable prospect of success or that there is some other compelling reason why the appeal should be heard, including conflicting judgments on the matter under consideration.
- [4] The application for leave to appeal is not opposed and the first respondent filed its heads of argument. Save for rehashing the grounds of appeal as contained in the notice of motion, the first respondent stated in its heads of argument that the law provides for prohibitory and mandatory interdicts and any applicant who approached the court seeking to interdict another was duty bound to satisfy the requirement as set out in Uniform Rule 6(12), an elementary principle that the court overlooked. Furthermore, the court erred in mulcting with costs the uncited members of the first respondent without establishing their identities. The said members of the first respondent were not even before the court.
- [5] It would appear from the first respondent's heads of argument that interdictory relief can only be granted by way of employing the provisions of Uniform Rule 6(12). This argument is misplaced as the said rule applies to urgent applications, allowing for deviation from normal court rules and time lines when urgency is demonstrated. Interdicts can be sought through normal court applications and are not restricted to urgent ones under Rule 6(12). I have considered the applicant's grounds of appeal as well as the heads of argument and am not persuaded that the issues raised therein have substance and that the appeal has any reasonable

prospect of success. In the main judgment I comprehensively set out the reasons for my conclusions which dealt with most of the grounds of appeal raised. It is unnecessary to repeat the same reasoning here.

[6] In the result the following order is made:

Order:

The application for leave to appeal is dismissed.


MHLAMBI, J

On behalf of the Applicant: Adv. PS Mphulwane
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On behalf of the respondent: Adv. S Sethene
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