



REPUBLIC OF SOUTH AFRICA

THE LABOUR COURT OF SOUTH AFRICA, JOHANNESBURG

JUDGMENT

Case no: JR 576/2011

Not Reportable

In the matter between:

LIBERTY GROUP PROPERTIES (PTY) LTD

Applicant

and

M. MOODLEY

First Respondent

COMMISSIONER ANISE SWANEPOEL N O

Second Respondent

COMMISSION FOR CONCILIATION

MEDIATION AND ARBITRATION

Third Respondent

Heard: 16 April 2014:

Delivered: 16 April 2014

In Chambers: Application for leave to appeal. Granted

JUDGMENT: APPLICATION FOR LEAVE TO APPEAL

GUSH J

- [1] This is an application for leave to appeal against the judgement of the Honourable Acting Judge Ntsaba-Letele handed down on 29 November 2013.
- [2] The applicant filed its application for leave to appeal timeously on 13 December 2013. On 2 January 2014 the first respondent filed its submissions opposing the applicant's application for leave to appeal.
- [3] On 20 of February 2014 the applicant filed further submissions in respect of the application for leave to appeal and on 26 February 2014 the applicant filed an application for condonation for the late filing of these submissions.
- [4] On 11 March 2014 the first respondent filed an affidavit opposing the applicant's application for condonation for the late filing of the submissions filed by the applicant.
- [5] 14 March 2014 filed an affidavit replying to the respondent's affidavit opposing the application for leave to appeal and the application for condonation.
- [6] I have considered the applicants grounds upon which it relies respect of the application for condonation and the respondent's opposition thereto. I am not satisfied that the applicant application for condonation for the late filing of its further submissions has any merit. The grounds upon which the applicant relies do not satisfy even the most lenient scrutiny.
- [7] In the circumstances therefore the applicants application for condonation for the late filing of its further submissions dismissed.
- [8] This however is not the end of the matter. When the applicant filed, timeously, its application, the applicant set out therein, in some detail, the grounds upon which it relies in seeking leave to appeal. These grounds to all intents and purposes substantially constitute the submissions required of an applicant by the Act, Rules and Practice Manual and I am accordingly that the applicant has sufficiently complied with section 166 of the Labour

Relations Act, read with rule 30 and in particular rule 30 (3A) and paragraph 15 of the Labour Court Practice Manual.

- [9] There was sufficient particularity in the grounds upon which the applicant's application for leave to appeal is based to have allowed the first respondent file in reply thereto substantive and detailed "submissions on leave to appeal".
- [10] I have in the circumstances taken into account and carefully considered the applicants application for leave to appeal and the grounds upon which it seeks such leave and the first respondents opposing answering submissions.
- [11] Having done so, I am satisfied that there is a reasonable prospect that a different court might come to a different conclusion in this matter.
- [12] I therefore make the following order:
- a. The applicants application for leave to appeal is granted;
 - b. There is no order as to costs.

D H Gush

Judge of the labour Court of South Africa