



REPUBLIC OF SOUTH AFRICA

IN THE LABOUR COURT OF SOUTH AFRICA, JOHANNESBURG

JUDGMENT

Reportable

Case no: JS101/2010

In the matter between

METSIMAHOLO LOCAL MUNICIPALITY

Applicant

and

IMATU obo JJ ROUX AND

H KLAUMANN-S-MOLLER

Third Respondent

Delivered: 4 July 2014

JUDGMENT: APPLICATION FOR LEAVE TO APPEAL

COETZEE, AJ

- [1] The applicant's review application was argued before this Court on 6 December 2013.
- [2] After having heard argument I rendered an *ex tempore* judgment on 6 December 2013 giving full reasons for the judgment.

- [3] I dismissed the application with no order as to costs.
- [4] The Applicant, on 14 May 2014, served and filed a notice of application for leave to appeal against the whole of the judgment.
- [5] Applicant has obtained a transcript of the judgment and reasons on 29 April 2014.
- [6] Both parties filed written submissions in respect of the application for leave to appeal. Applicant filed its written submissions on 28 May 2014. Respondents filed their written submissions on 23 June 2014.
- [7] I have considered the application for leave to appeal and the parties' written submissions in chambers.
- [8] The respondents raised a point *in limine* to the effect that applicant has not complied with the Rules of the Labour Court in filing its notice of application for leave to appeal. Applicant has also not submitted an application for condonation for non-compliance with the rules.
- [9] A dissatisfied litigant does not enjoy an automatic right of appeal. The litigant requires the leave of the Labour Court to appeal against its judgment or order.
- [10] The procedural requirements are set out in Rule 30 of the Rules of the Labour Court. Rule 30 provides as follows:

'30. Application for leave to appeal to the Labour Appeal Court.

- (1) An application for leave to appeal to the Labour Appeal Court may be made, by way of a statement of the grounds for leave, at the time of the judgment or order.
- (2) If leave to appeal has not been made at the time of judgment or order, an application for leave must be made and the grounds for appeal furnished within 15 days of the date of the judgment or order against which leave to appeal is sought

except that the court may, on good cause shown, extend that period.

- (3) If the reasons or the full reasons for the court's order are given on a date later than the date of the judgment or order, the application for leave to appeal must be made within 10 days after the date on which the reasons are given, except that the court may, on good cause shown, extend that period.'

[11] Respondents make the point that the *ex tempore* judgment of 6 December 2013 was a judgment with full reasons. The point is correctly made.

[12] Respondents further contend that the application for leave to appeal had to be made within 15 days of 6 December 2013.

[13] Instead, the application was made only on 14 May 2014 approximately five months later.

[14] The application for leave to appeal has not been made within 15 days of 6 December 2013 and required an application for condonation. There is no such an application.

[15] The rules and time limits are there for a reason.

[16] The Constitutional Court in *Mohlomi v Minister of Defence*,¹ said:

'Rules that limit the time during which litigation may be launched are common in our legal system as well as many others. Inordinate delays in litigating damage the interests of justice... such rules prevent procrastination and those harmful consequences of it. They thus serve a purpose to which no exception in principle can cogently be taken.'

[17] Bosielo, AJ sitting in the Constitutional Court in *Grootboom v National Prosecuting Authority and Another*² remarked:

¹ 1997 (1) SA 124 (CC) at para 11

'I need to remind practitioners and litigants that the rules and courts' directions serve as a necessary purpose. Their primary aim is to ensure that the business of our courts is run effectively and efficiently. Invariably this will lead to the orderly management of our courts' rolls, which in turn will bring about the expeditious disposal of cases in the most cost effective manner.'

[18] In respect of the Applicant's application for leave to appeal, I need not consider whether the circumstances of the application for leave to appeal meet the requirements of paragraphs (a), (b) and (c) of section 17 (1) of the Superior Courts Act, 10 of 2013.

[19] In the absence of an application for condonation the application for leave to appeal is fatally defective and there is no reason why the respondents should be saddled with costs.

[20] Under the circumstances I make the following order:

20.1 The application is dismissed.

20.2 Applicant is ordered to pay the costs of the application for leave to appeal.

Coetzee AJ

Acting Judge of the Labour Court

² (2014) 35 ILJ 121 (CC) at para 32. See also *eThekwin Municipality v Ingonyama Trust* 2013 (5) BCLR 497 (CC).

Appearances:

No appearances as the matter was dealt with in Chambers

LABOUR COURT