



THE LABOUR COURT OF SOUTH AFRICA, JOHANNESBURG

Not Reportable

Case No J631/12

In the matter between:

ADVANCE WAREHOUSING LIMITED

Applicant

and

ANNAH PRUDENCE MASHIGO

Respondent

Date: 29 January 2016

Decided in chambers

JUDGMENT IN APPLICATION FOR LEAVE TO APPEAL

Mothibi, AJ

Introduction:

- [1] This is an application for leave to appeal against a judgment that was delivered on 22 January 2015 in terms of which the Applicant's application to rescind an order of this Court granted in its absence on 8 June 2012 was dismissed with costs.

- [2] I have considered the Applicant's written submissions in support of its application for leave to appeal. The Respondent did not oppose the application for leave to appeal.

Analysis:

- [3] It is trite that the test in deciding whether to grant leave to appeal is whether there is a reasonable prospect that another court may come to a different conclusion than the conclusion reached by the court a quo. The Applicant in its grounds of review takes issue with my judgment that it principally sought to rescind the order of 8 June 2012 because "... there has never been proper notice served on the Applicant ...". The Applicant submits that I took the aforementioned remarks out of context and that another court may come to a different conclusion having regard to its version contained in the totality of its papers.
- [4] Having regard to the submission made by the Applicant I grant the Applicant leave to appeal to the Labour Appeal Court in circumstances where it may, having regard to the facts contained in the affidavits filed in support of the rescission application, come to a different conclusion having regard to those facts.

Order:

- I. Leave to appeal to the Labour Appeal Court is granted against the whole of the judgment delivered on 22 January 2015.
- II. There is no order as to costs.

Mothibi, AJ

Acting Judge of the Labour Court of South Africa