

IN THE HIGH COURT OF SOUTH AFRICA

GAUTENG LOCAL DIVISION, JOHANNESBURG

CASE NO: 051229/2023

DATE: 29-11-2024

DELETE WHICHEVER IS NOT APPLICABLE

(1) REPORTABLE: NO.

(2) OF INTEREST TO OTHER JUDGES: NO.

(3) REVISED.

DATE: 29 November 2024

In the matter between

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LEVEL SEVEN RESTAURANT (PTY) LTD

Applicant

and

SIGNATURE RESTAURANT GROUP (PTY) LTD Respondent

J U D G M E N T *EX TEMPORE*: LEAVE TO APPEAL

WILSON, J: The applicant, Level Seven, seeks leave to appeal against my judgment of 25 September 2024, in which I concluded that it is not open to Level Seven to appeal to the High Court against an arbitrator's award by which it is aggrieved.

The fundamental basis for that decision was that section 28 of the Arbitration Act 42 of 1965 cannot be interpreted to permit such an appeal. Even if it could, that is no reason to accept Level Seven's argument that such an

interpretation would better promote the spirit purport and objects of the Bill of Rights.

Those conclusions notwithstanding, I am persuaded that an appeal to the Supreme Court of Appeal ought to be permitted.

I regard Level Seven's prospects of success on appeal as fairly weak. However, given that the Supreme Court of Appeal has not yet considered the proper interpretation of section 28, I think that Level Seven's
10 prospects are not so weak as to deprive me of a compelling reason to send the matter on appeal. It is, in my view, in the interests of justice for the questions Level Seven raises about the appealability of arbitral awards to be resolved authoritatively by a court of national jurisdiction.

For all those reasons I make the following order-

1. The application for leave to appeal is granted.
2. Leave is granted to the Supreme Court of Appeal.
3. The costs of the application for leave to appeal are to be costs in the appeal