



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

Reportable/Not reportable

Case Number: 3159/2020

In the matter between:

LOUIS JONKER

First Applicant

JOHANNA JACOBA JONKER

Second Applicant

and

**THE LAND AND AGRICULTURAL DEVELOPMENT
BANK OF SOUTH AFRICA**

First Respondent

DEON MARIUS BOTHA N.O.

Second Respondent

JOHANNES ZACHARIAS HUMAN MULLER N.O.

Third Respondent

LOUISA SIBIYA N.O.

Fourth Respondent

**THE MASTER OF THE HIGH COURT,
BLOEMFONTEIN**

Fifth Respondent

**AFFECTED PARTIES OF JONKER PRODUCTS CC
AS PER LIST ANNEXED AS ANNEXURE "A"**

Sixth Respondent

Coram: Reinders, J

Heard: 4 November 2024

Delivered: This judgment was handed down in open court on 15 November 2024 and distributed to the parties via electronic mail communication.

Summary: **Application for Leave to Appeal**

ORDER

The application for leave to appeal is dismissed with costs, such costs to include the costs consequent upon the employment of two counsel.

JUDGMENT

[1] On 16 August 2024 I declined an application to set aside a final order of liquidation that was granted against Jonker Products CC (in liquidation) [the CC]. I further declined to grant interim relief prohibiting the liquidators of the CC from continuing with the liquidation processes pending an action to be instituted by the applicants to set aside the liquidation proceedings.

[2] The reasons for not granting the relief can be gleaned from my written judgment. It suffices to say that an opposed application for the liquidation of the CC served before court and, having heard argument, a provisional order of liquidation was granted on 9 September 2020 which order was subsequently confirmed on 29 October 2020.

[3] In reaching the conclusion which I did on 16 August 2024 I found that the question of *locus standi* was ventilated and adjudicated by the courts granting the provisional as well as the final orders whilst the application was comprehensively opposed. I concluded that in those circumstances I cannot sit as a court of appeal on those orders and that the application to set aside the final order of liquidation could therefore not succeed.

[4] The applicants before me now contend that I was wrong in that conclusion and that a court of appeal would come to a different conclusion than me, wherefore they seek leave

to appeal to the Supreme Court of Appeal, alternatively a court which I may direct in my discretion. The first respondent opposed the relief claimed.

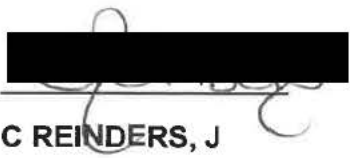
[5] The trite principles applicable to applications of this nature have been alluded to by the parties and do not need to be restated. The applicants relied on both s17(1)(a)(i) [that the appeal would have a reasonable prospect of success] and (ii) [that there is some other compelling reason why the appeal should be heard] of the Superior Courts Act, 10 of 2013.

[6] I have read my judgment and carefully considered the able arguments by both parties. I have also considered the heads of argument filed in this application for which I thank the legal representatives appearing on behalf of the respective parties.

[7] I am of the view that another court would not come to a different finding, nor are there compelling reasons why an appeal should be heard by another court.

[8] Accordingly I grant the following order:

The application for leave to appeal is dismissed with costs, such costs to include the costs consequent upon the employment of two counsel.


C REINDERS, J

Appearances:

On behalf of the Applicants:

Instructed by:

Adv FG Janse van Rensburg

Eugene Geyser Attorneys

c/o Lovius Block Attorneys

BLOEMFONTEIN

On behalf of the First Respondent:

Instructed by:

Adv J Marais SC

Adv S Tsangarakis

Strydom and Bredenkamp

c/o Cooper Majiedt Attorneys

BLOEMFONTEIN