

REPUBLIC OF SOUTH AFRICA



**IN THE HIGH COURT OF SOUTH AFRICA
GAUTENG DIVISION, PRETORIA**

CASE NO: 2023-097235

1. REPORTABLE: YES/ NO
2. OF INTEREST TO OTHER JUDGES: YES/NO
3. REVISED: YES / NO

DATE:

SIGNATURE OF JUDGE:

In the matter between:

AFRICAN RAINBOW MINERALS LTD

Applicant

and

TAM HOLDINGS (PTY) LTD

First Respondent

TECHNOLOGY AND MINERAL HOLDINGS (PTY) LTD

Second Respondent

PIETER GIDEO VAN DER MERWE

Third Respondent

PRETORIUS CHEMICAL CONSULTATION (PTY) LTD

Fourth Respondent

DR GERARD PRETORIUS

Fifth Respondent

JUDGMENT

- [1] The First – Third Respondents applied for Leave to Appeal to the Supreme Court of Appeal Bloemfontein, alternatively to the full court of the Gauteng Division, Pretoria against the order and ensuing judgment handed down by this Court on 06 November 2024.
- [2] For ease of reference, the parties are referred to as in the main application.
- [3] Full reasons were provided in the judgement that I compiled on 19 December 2024 and I do not propose to furnish further reasons, the First - Third Respondents in their Leave to Appeal argued on 30 January 2025, then not substantively advancing their propositions further.
- [4] Sec 17 (1) of the Superior Court Act No 10 of 2023 ("The Act") provides:
"Leave to Appeal may only be given where the judges concerned are of the opinion that:

(i) The Appeal would have a reasonable prospect of success; or
(ii) there is some compelling reason why the Appeal should be heard, including conflicting judgements on the matter under consideration".
- [5] Sec 17(1)(a) of the Act provides a stringent test wherein the Court must be satisfied that the appeal would have a reasonable prospect of success. (See **Mont Chevaux Trust (IT2012/28) v Tine Goosen**. Unreported, LCC Case No LCC 14R/2014, dated 3 November 2014, **Notshokovu v S**, unreported, SCA Case N0 157/15 dated 07 September 2016 and **Erasmus Superior Court Practice**. DE Van Loggenberg, Vol Part A, R512, 2020 A2-55.

[6] In my opinion the First – Third Respondents have not met this threshold.

[7] Further, there are no conflicting judgments which would have to be considered by the Superior Court of Appeal in terms of Sec (17(1)(a)(ii) of the Act and the public interest will not be served by an appeal in respect of which there is no legal uncertainty.

[8] In the circumstances, I am not persuaded that another Court will come to a different conclusion. The First – Third Respondents' grounds of appeal and reasons therefore not justifying leave to appeal being granted and there is no compelling reasons to grant leave in terms of Sec 17(1)(a) of the Act.

ORDER

Having read the papers and heard counsel, it is ordered that:

- 1 The Leave to Appeal application launched at the instance of the First – Third Respondents is hereby denied and dismissed.
2. The First – Third Respondent are directed to pay the costs of this Leave to Appeal Application, on attorney and own client scale including the costs of counsel on scale C.

**JOHN RICHARD MEADEN
ACTING JUDGE OF THE HIGH
COURT OF SOUTH AFRICA
GAUTENG DIVISION
PRETORIA**

Appearances

For Applicant:	Adv. LG Minné
Instructed by:	Bowmans Gilfillan Inc.
For 1st – 3rd Respondents:	Adv. R Raubenheimer
Instructed by:	Willemse Potgieter & Babinszky Inc.
For 4th & 5th Respondents:	No Appearance
Instructed by:	Anderson-Kriel Attorneys
Date of Hearing:	30 January 2025
Date of Judgment:	31 January 2025

This judgment was handed down electronically by circulation to the parties' and or parties' representatives by email and by being uploaded to CaseLines. The date and time for the hand down is deemed to be 10h00 on this ____st day of January 2025.