



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

DELETE WHICHEVER IS NOT APPLICABLE

- (1) REPORTABLE: YES/NO ✓
(2) OF INTEREST TO OTHER JUDGES: YES/NO ✓
(3) REVISED:

5/2/25

DATE

[REDACTED SIGNATURE]

SIGNATURE

CASE NO: 060240/2022

In the matter between:

RHULANI HORWARD NDOBELA

Applicant

and

COMMUNITY SCHEMES OMBUD SERVICE

First Respondent

MIDSTREAM RIDGE HOME OWNERS ASSOCIATION NPC

Second Respondent

LEAVE TO APPEAL JUDGMENT

TOLMAY J

1. After hearing argument, considering the heads of argument and my judgment I am of the view that there are no reasonable prospects that another court would come to another conclusion as envisaged on section 17 (1)(a)(ii) of the Superior Courts Act, for the reasons set out in my judgment.
2. The applicant also argued that it will be in the interests of justice to grant leave as the matter raises constitutional issues and it is “in the broader interests of justice” to grant leave to appeal. This seems to be a reference to section 167 (3)(ii) of the Constitution. This section deals with the jurisdiction of the Constitutional Court to grant leave to appeal. This section does not find application here. However, the argument may be interpreted to mean that there are compelling reasons to grant leave. No compelling reasons, however, exist why leave should be granted, as the dispute is limited to the interests of the parties before Court and does not have any broader relevance or impact, nor does it deal with important and complex legal issues.
3. The applicant furthermore seeks leave to appeal against the punitive costs order granted by the Court against him. The Court exercised a discretion, as it is entitled to do. The reasons are as set out in the judgment and there is no reasonable prospect that another court will interfere with the discretion exercised in this regard. As far as the costs of the application for leave to appeal is concerned, the respondent argued that this application is a continuation of the abuse. I am however of the view that the applicant has already been punished for the abuse of process, the mere launching of the application for leave to appeal does not, in my view, constitute an abuse. The costs order should however follow the result of the application.

The following order is made:

1. The application for leave to appeal is refused with costs.


R TOLMAY

JUDGE OF THE HIGH COURT
GAUTENG DIVISION, PRETORIA

Appearances:

For Applicant: Adv M Mathaphuna instructed by Ndobela and Associates

For Respondent: Adv T Ossin instructed by Tonkin Clacey Attorneys

Date of hearing: 30 January 2025

Date of judgment: 5 February 2025