



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

- (1) REPORTABLE: No
(2) OF INTEREST TO OTHERS JUDGES: No
(3) REVISED: No
(4) DATE: 17 February 2025

(5) SIGNATURE: _____

Case No: 45183/2018

In the matter between:

CITY OF TSHWANE METROPOLITAN
MUNICIPALITY

Applicant

And

TSHIAMO TSHEPISO MOATSHI

Respondent

This judgment is issued by the Judge whose name is reflected herein and is submitted electronically to the parties/their legal representatives by email. The judgment is further uploaded to the electronic file of this matter on CaseLines by the Judge or her Secretary. The date of this judgment is deemed to be 17 February 2025.

JUDGMENT

COLLIS J

INTRODUCTION:

1. The applicant before Court has applied for leave to appeal the judgment of this Court handed down on 11 April 2024.

2. In anticipation of this application this Court requested the parties to file short heads of arguments. Only the Applicant proceeded to file same and the Respondent filed a Notice to Abide the decision of this Court.

3. The proceedings were concerned with the interpretation of section 118(1) of the Local Government: Municipal Systems Act, 32 of 2000 ("the Act"). Specifically, whether interest is chargeable for purposes of

issuing the certificate contemplated in section 118 (1) ("clearance certificate").

4. In the event of a finding that interest was indeed chargeable, there were further incidental issues raised by the Respondent regarding the type of interest chargeable by the municipality including the argument on levying of compound interest.

5. The judgment handed down by the Court has the effect that a certificate contemplated in section 118(1) of the Local Government System Act, 32 of 2000 ("the Act") must be issued once all amounts due in connection with the property, as annunciate in section 118(1)(b) of the Act, have been paid, notwithstanding that interest on any such amounts has not been paid.

6. Differently put, this Court declared that on interpretation of section 118(1)(b), the Municipality is prohibited from charging interest on any arrear Municipal account prior to issuing the section 118(1)(b) certificate.

7. The declaration so made by this Court has an effect to future section 118 (1) certificate ("clearance certificates"), in that it impedes on municipalities powers to embargo transfer of a property and to collect outstanding arrear municipal debts, including interest, due in

connection with the property during the preceding two (2) years of application for the clearance certificate.

8. The Applicant has raised several grounds of appeal.

9. The Superior Courts Act 10 of 2013, and more particularly Section 17(1) thereof, provides:

Leave to appeal may only be given where the judge or judges concerned are of the opinion that- (i) the appeal would have a reasonable prospect of success; or (ii) there is some other compelling reason why the appeal should be heard, including conflicting judgments on the matter under consideration.

10. The present application for leave to appeal is mounted on the basis that there exist reasonable prospects of success on appeal and because there is some other compelling reason why the appeal should be heard.

11. The legislated injunction that should guide the evaluation of this application for leave to appeal is accordingly that; leave to appeal should be granted if the Court is of the opinion that the appeal would have a reasonable prospect of success or a compelling reason exists why the appeal should be heard.

12. This Court has had regard to the provisions of the Act and the grounds of appeal so mounted and is of the opinion that not only is there a reasonable prospect of success in the appeal but there also exists a compelling reason for leave to appeal to be granted, namely the public importance of the matter.

13. Consequently, leave to appeal is granted to the Supreme Court of Appeal with costs in the appeal.



C COLLIS

JUDGE OF THE HIGH COURT

GAUTENG DIVISION, PRETORIA

APPEARANCES

Counsel for the Applicant: Adv. R Mphaga

Adv. M Rasekgala

Instructing Attorney: MOTSOENENG BILL ATTORNEYS Inc

Counsel for Respondent: Adv. Van Dyk

Instructing Attorney: MACHOBANE KRIEL Inc.

Date of Hearing: 29 November 2024

Date of Judgment: 17 February 2025

