

REPUBLIC OF SOUTH AFRICA



IN THE HIGH COURT OF SOUTH AFRICA
GAUTENG DIVISION, PRETORIA

DELETE WHICHEVER IS NOT APPLICABLE

1.REPORTABLE: NO

2.OF INTEREST TO OTHER JUDGES: NO

3.REVISED: NO

14 MARCH 2025

Judge Dippenaar

CASE NO: B4469/2023

In the matter between:

ZEDA CAR LEASING (PTY) LTD T/A AVIS FLEET

APPLICANT

AND

LIFEMED EMERGENCY SERVICES (PTY)LTD

RESPONDENT

LEAVE TO APPEAL JUDGMENT

Delivered: This judgment was handed down electronically by circulation to the parties' legal representatives by e-mail. The date and time for hand-down is deemed to be 10h00 on the 14th of March 2025.

DIPPENAAR J:

[1] The parties are referred to as in the main application. The respondent, as applicant for leave to appeal, seeks leave to appeal the whole of the judgment and order granted by me on 6 March 2025 to the Full Bench (sic) Full Court alternatively to the Supreme Court of Appeal. In terms of the order, the respondent was directed to return certain vehicles to the applicant pending the finalisation of an action to be instituted by the applicant within 30 days of the order, together with ancillary relief.

[2] Some eleven grounds of appeal are advanced why the court misdirected itself. At the hearing, the respondent abandoned all but one, persisting with the contention that the applicant had not established the requirements of the *rei vindicatio* and that this court erred in finding that it did.

[3] I have considered the papers filed of record and the grounds set out in the application for leave to appeal as well as the parties' extensive arguments for and against the granting of leave to appeal. I have further considered the submissions made in their respective heads of argument and the authorities referred to by the respective parties.

[4] My judgment is comprehensive and I stand by the reasons set out therein.

[5] Applications for leave to appeal are regulated by s 17(1) of the Superior Courts Act¹. Leave to appeal may only be granted where a court is of the opinion that the appeal would have a reasonable prospect of success, which prospects are not too remote². A

¹ 10 of 2013

² *Ramakatsa and Others v African National Congress and Another* [2021] JOL 49993 (SCA) para [10]; *S v Notshokovu* 2016 JDR 1647 (SCA) para [2], *Acting National Director of Public Prosecutions and Others v*

sound rational basis for the conclusion that there are prospects of success must be shown to exist³.

[6] Considering the facts, and the grounds on which leave to appeal are sought, it cannot be concluded that the respondent has illustrated reasonable prospects of success on appeal as envisaged by s 17(1)(a)(i) of the Act.⁴ The respondent did not rely on the existence of compelling reasons as envisaged by s 17(1)(a)(ii) of the Act.

[7] I conclude that there are no reasonable prospects of success on appeal. It follows that the application must fail. There is no reason to deviate from the normal principle that costs follow the result. In terms of the agreement between the parties, costs are to be on the scale as between attorney and client.

[8] I grant the following order:

[1] The application for leave to appeal is dismissed with costs as between attorney and client.


EF DIPPENAAR
JUDGE OF THE HIGH COURT
GAUTENG PRETORIA

Democratic Alliance; In re: Democratic Alliance v Acting National Director of Public Prosecutions (2016) ZAGPPHC 489 para [25]

³ *Smith v S* [2011] ZASCA 15; *MEC for Health, Eastern Cape v Mkhitha* [2016] ZASCA 176, para [17].

⁴ *MEC for Health, Eastern Cape v Mkhitha* 2016 JDR 2214 (SCA) paras 16-18.

APPEARANCES

DATE OF HEARING	: 14 MARCH 2025
DATE OF JUDGMENT	: 14 MARCH 2025
APPLICANTS' COUNSEL	: Adv TP Kruger SC
APPLICANTS' ATTORNEYS	: Rothmann Phahlamohlaka Inc.
RESPONDENT'S COUNSEL	: Adv J Schoeman
RESPONDENT'S ATTORNEYS	: Van Der Walt Attorneys Inc.