

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

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

26 March 2025
DATE


SIGNATURE

CASE NO: 081565/2023

In the matter between:

SMADA SECURITY SERVICES (PTY) LTD

Appellant/Applicant

and

**DEPARTMENT OF JUSTICE AND
CONSTITUTIONAL DEVELOPMENT**

Respondent

JUDGMENT

(The matter was heard in open court and judgment was reserved. A written judgment was uploaded onto the electronic file of the matter on CaseLines and the date of uploading thereof onto CaseLines is deemed to be the date of the judgment)

BEFORE: HOLLAND-MUTER J:

[1] The issue of when leave to appeal be granted by a judge in the court *a quo* is governed by the provisions of Section 17 of the Supreme Court Act, 10 of 2013. Section 17(1)(a)(i) stipulates that the court may only grant leave to appeal if the court is of the opinion that the appeal would have a reasonable prospect of success. The word “only” used in this subsection raised the bar of the test that now applied to the merits indicating a certain measure of certainty that another court will differ from the court *a quo*.

[2] Subsection 17(1)(a)(ii) stipulates that a court may grant leave to appeal if there is some other compelling reason why the appeal should be heard.

[3] It was argued on behalf of the appellant that leave should be granted because there is a reasonable prospect of success taken into consideration that the facts most likely support such prospect. It was argued that the respondent made a clear ‘mistake’ when considering the two tenders received. It was argued that the respondent should have considered the hard copy of the tenders which would indicate that the respondent should have realised that the electronic tender was incomplete regarding the sector tendered for and the different prices between sector A & B in the tenders. The court was of the view that this was not a mistake but another court may decide the opposite.

[4] Counsel for the appellant further submitted that in view of the rather large difference in pricing between sector A & B, the losses suffered by the appellant

may result in the business to be liquidated and that a large number of employees may lose their work. This, he argued, constitutes other compelling circumstances why the appeal should be granted.

[5] Taken into consideration all the facts and the arguments raised, I am of the view that there are reasonable prospect of success and compelling circumstances to grant leave to appeal.

[6] After consideration leave to appeal against the judgment is granted to the Supreme Court of Appeal.

ORDER:

1. Leave to appeal to the Supreme Court of Appeal in granted.
2. Costs of the application is costs in the appeal.



HOLLAND-MUTER J

Judge of the Pretoria High Court

26 March 2025

Application was heard on 25 March 2025.

Judgment was handed down by uploading onto CaseLines on 26 March 2025.

Appearances:

Appellant/Applicant: Adv A PJ ELS SC

Respondent: Adv Ramawele SC