



THE LABOUR COURT OF SOUTH AFRICA, JOHANNESBURG

Not Reportable
Case No: JR362/23

In the matter between:

MOPANI CIVILS (PTY) LTD

Applicant

and

LE ROUX, YOLANDA N.O.

First Respondent

**THE BARGAINING COUNCIL FOR THE
CIVIL ENGINEERING INDUSTRY (BCCEI)**

Second Respondent

TSHEPO MAKITI MOKGATHI

Third Respondent

Heard: In Chambers

Delivered: 12 March 2025

**JUDGMENT:
APPLICATION FOR LEAVE TO APPEAL**

MAKHURA, J

[1] This is an application for leave to appeal the whole of the judgment and order handed down on 11 December 2024 in terms of which this Court dismissed the applicant's review application. The leave to appeal application, as with the main application, is unopposed.

[2] The question in these proceedings is whether the appeal would have a reasonable prospect of success or whether there are other compelling reasons that warrant the appeal being heard.¹

[3] The applicant's primary case is that the Court erred in not considering, scrutinising and evaluating the evidence tendered at the arbitration proceedings. There is no merit in this application.

[4] The commissioner had considered, analysed and applied his mind to the applicant's application for postponement, which was brought orally without any evidence. Having refused the postponement application, the applicant elected not to participate in the arbitration proceedings. The employee proceeded to give evidence, which was uncontested. The commissioner considered and analysed the employee's contested evidence before declaring the dismissal unfair and awarding compensation. This Court was sitting on review, not appeal and therefore had to apply the well established test of reasonableness. The applicant's attempt to upset the award was feeble and completely meritless.

¹ Superior Court Act 10 of 2013. Section 17(1) provides that: "*Leave to appeal may only be given where the judge or judges concerned are of the opinion that –*

(a) (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...*"

[5] The appeal would have no reasonable prospect of success and it would not present any arguable point of law. There are no other compelling reasons to burden the Labour Appeal Court with a doomed application such as the present. The application for leave to appeal stands to be dismissed.

[6] In the premises, the following order is made:

Order

1. The application for leave to appeal is dismissed.

M. Makhura

Judge of the Labour Court of South Africa