



**IN THE HIGH COURT OF SOUTH AFRICA
(WESTERN CAPE DIVISION, CAPE TOWN)**

Case number: 2025-105798

In the matter between:

REGINALD DAVID SNYDERS

First Applicant

SPECELINE SNYDERS

Second Applicant

And

FRIDOLAIN CHAMFORT DJOMO DJOUFANG

First Respondent

STELLENBOSCH MUNICIPALITY

Second Respondent

SHERIFF OF THE LOWER COURT, STELLENBOSCH

Third Respondent

Coram: Pangarker, J

Date of hearing: 14 August 2025

Date of Judgment: 15 August 2025

JUDGMENT: APPLICATION FOR LEAVE TO APPEAL

PANGARKER J

[1] On 21 July 2025, this Court delivered its written reasons for orders granted on 10 July 2025 pursuant to an urgent application heard on 9 July 2025. The written reasons appear on Saflii as ***Djoufang v Snyders and Others (Reasons) [2025] ZAWCHC 297***. The first respondent in the current application, Mr Djoufang, was the applicant in both the urgent application and the earlier eviction application heard in the Stellenbosch Magistrates' Court. On 24 July 2025, Mr and Mrs Snyders, who are the applicants in this application, and were the first and second respondents respectively in the urgent application and eviction, delivered a document which purported to be an application for leave to appeal this Court's 10 July order and subsequent reasons. The document did not comply with the provisions of rule 49(1) read with Practice Directive 45B. I refer to the parties as cited in the application heard yesterday.

[2] In view of the issues related to the abovementioned document, the applicants were requested to consider obtaining legal advice or legal representation to assist them in bringing a proper application for leave to appeal the order of 10 July 2025. They were also informed that once a proper application was delivered, a date for the hearing of the leave to appeal application would be communicated to the parties.

[3] Subsequently, a second application, along with several further documents, was indeed delivered by the applicants, who drafted the documents themselves and continued to represent themselves. In order to expedite matters and ensure that the applicants were heard, the matter was allocated for hearing yesterday, 14 August 2025. As with the urgent application, and the delivery of various documents, often duplications, the Court's approach was relatively flexible, bearing in mind that the applicants were unrepresented litigants.

[4] In order to ensure that the second document, the *"Notice of Motion: Application for leave to appeal on case 2025-105798 Western Cape High Court: Urgent Roll"*, was in fact the respondents' leave to appeal application, the Court explained section 17(1) of the Superior Courts Act 10 of 2013 and the test in leave to appeal applications to the

applicants. Mr Snyders, the first applicant, confirmed that this second document was indeed his and his wife's leave to appeal application in respect of this Court's order and written reasons pursuant to the urgent application heard in July 2025.

[5] The order of 10 July 2025 stated the following:

- "1. That condonation is granted for the non-compliance with time periods, forms and processes set out in the Uniform Rules of Court. In terms of Rule 6(12), the application is urgent.*
- 2. That it is declared that the document titled "Notice of an appeal on case 126/2024: Stellenbosch Magistrates' Court", filed on 25 June 2025 at the Stellenbosch Magistrates' Court which purports to be a Notice of Appeal against the order granted by that Court on 13 March 2025 (the eviction order) is out of time, irregular and defective.*
- 3. That it is declared that the operation and executability of the eviction order is not suspended.*
- 4. The Fifth Respondent is directed to carry out the eviction of the First to Third Respondents as set out in paragraph 4 of the eviction Order as requested by the Applicant.*
- 5. The First, Second and Fifth Respondents are ordered to pay the costs of this application, jointly and severally."*

[6] The applicants attached an affidavit to their Notice of Motion (leave to appeal) wherein they, *inter alia*, (i) take issue that this Court's order renders their appeal against the eviction and condonation for the late Notice of Appeal, null and void; (ii) that the authorities referred to in the written reasons, namely, ***President of the Republic of South Africa and Others v Modderklip Boerdery (Pty) Ltd***¹ and ***Panayiotou v Shoprite Checkers (Pty) Ltd and Others***², were irrelevant to the urgent application; (iii) that the decision in ***Charnell Commando and Others v City of Cape Town and***

¹ 2004(6) SA 40 SCA

² 2016(3) SA 110 (GJ)

Another³ should be followed; and, (iv) that there is a reasonable prospect of success on appeal and some compelling reason why the appeal should be heard.

[7] I point out that the affidavit is largely a re-visit of the Snyders' opposition to the urgent application for declaratory relief. Furthermore, large parts of the affidavit present submissions and averments related to the subject matter of the urgent application which were already canvassed during that hearing, considered and addressed in the written reasons of 21 July 2025.

[8] Be that as it may, in their Notice of Motion, the applicants request the following: leave to appeal the 10 July 2025 order; a hearing for a revised order on an urgent basis⁴; a stay of the eviction order; an order that the Sheriff, Stellenbosch be restrained from acting in accordance with the declarator granted on 10 July; a rescission of the 10 July order and that the Legal Aid Board be directed to assist them. On enquiry during the hearing, Mr Snyders confirmed that the applicants wish to have the 10 July order suspended or rescinded and also leave to appeal such order.

[9] On consideration of the Notice of Motion, it is evident that the applicants seek leave to appeal but the rest of the relief sought are orders which the first respondent and his legal representatives were of the view, were not competent. They were called to Court on a leave to appeal application and the additional relief sought makes no provision for the delivery of a Notice of Opposition and an answering affidavit. In respect of the latter submission, I agree with the first respondent's submission.

[10] In the circumstances, therefore, the Notice of Motion is approached from the perspective that the applicants seek leave to appeal the 10 July 2025 order and the subsequent written reasons. In his oral submissions, Mr Snyders' attacked the lack of urgency in the 9 July application for declaratory relief based on the same argument as presented during that hearing. However, there is no indication that the applicants hold

³ [2024] ZACC 27

⁴ Notice of Motion, p74

the view that the Court was wrong or committed an error on the question of urgency, but to the extent that the applicants do say this (though very unclearly), the written reasons dealt fully with the urgency issue and set out why the Snyders' argument regarding urgency had no merit. In these circumstances, the applicants have not shown that there is a reasonable prospect that another Court might come to a different conclusion on the question of urgency.⁵

[11] On their view that this Court's order renders the applicants' appeal of the eviction order null and void, the submission is certainly incorrect. It was made abundantly clear in the reasons that as a single Judge hearing an urgent application and having found that the Snyders' Notice of Appeal⁶ did not suspend the eviction order due to its late delivery, it was not for this Court at the time, to hear and consider a condonation application in respect of such late Notice of Appeal. This aspect is addressed at paragraphs 16 and 17 of the reasons. At the risk of repetition, any condonation application in respect of a late Notice of Appeal, would have to be placed before the Judges hearing the appeal.

[12] Mr Snyders also takes issue with this Court's reference to the **Modderklip Boerdery** and **Panayiotou** judgments referred to in its reasons. He regards the Supreme Court of Appeal's **Modderklip Boerdery** judgment as a "non-starter" and irrelevant to case number A138/2025, the eviction appeal. In this respect, and as correctly submitted by counsel for the first respondent, the Court dealt with the two judgments in its reasons and set out why the principles laid down therein - that the suspension of execution of an order presupposes a valid application for leave to appeal and that (as held by Sutherland J) in **Panayiotou**⁷, the delivery of a condonation application does not automatically suspend the operation of the order or judgment⁸ - apply equally to a Notice of Appeal filed in relation to a Magistrates' Courts' order and judgment. Clearly, the judgments were neither irrelevant to the issue before the Court in

⁵ The Mont Chevaux Trust v Goosen and Others 2014 JDR 2325 (LCC) para [6]

⁶ In respect of the Stellenbosch eviction order

⁷ At para [15]

⁸ Para 25, 26 of written reasons

the urgent application nor a “non-starter”, and accordingly, the submission as contended for by the applicants is without merit or substance.

[13] As for the reference to the **Commando** judgment, upon which Mr Snyders relies in the leave to appeal application, the Court enquired whether that judgment may not be more relevant to the appeal of the eviction as opposed to the leave to appeal application related to the urgent declaratory order. Mr Snyders was reminded that he was not arguing the appeal of the eviction order but was to limit himself to the grounds for leave to appeal the urgent declaratory order. In my view, this ground for leave to appeal also has no merit.

[14] Mr Snyders requested, at the conclusion of his submissions, that leave to appeal should be granted and that this Court’s order of 10 July 2025 should be suspended since the appeal of the eviction order is due to be heard in September. He also took issue that Stellenbosch Municipality was not present at Court to participate in the leave to appeal application, an aspect which, in my view, has no bearing on the success or otherwise of the leave to appeal application.

[15] Having considered the application and submissions, it is apparent that the applicants have conflated the leave to appeal with the previous urgent application, the eviction, the appeal against the eviction order, the condonation application and the application to admit new evidence on appeal, the latter being a further application attached to the leave to appeal documents. It would also seem that the Snyders wish to shift the proverbial goal posts to their appeal date in September 2025 and so remain in the first respondent’s property. Having regard to their various requests, all confusingly combined in a leave to appeal application, the Court agrees with counsel for the first respondent, that it is not at liberty to suspend its own order nor the eviction order of the Stellenbosch Magistrates’ Court. The correctness of the eviction order is a matter for the appeal Court, and not for this Court.

[16] Counsel also submitted that in July 2025, there was no application to suspend

the eviction order, nor a counter-application to the urgent application, thus the Snyders could not now, via the back door, seek a suspension of this Court's order or its rescission. In the event that their Notice of Motion purports to do so (seek a rescission and/or suspension), it in any event suffers from fatal defects as indicated above. Ultimately, the only matter which this Court was seized with yesterday, was the applicants' application for leave to appeal the urgent declaratory order.

[17] In the test applicable to leave to appeal applications, it must be emphasized that leave to appeal may only be granted if the Judge(s) concerned is of the opinion that the appeal would have reasonable prospects of success or that there is some other compelling reason why the appeal should be heard⁹. In considering such application, the Judge should approach the application objectively. Furthermore, the use of the word "would" in section 17(1)(a) refers to "*a measure of certainty*" that another Court will differ from the Court whose judgment is the subject of a leave to appeal application.¹⁰

[18] In view of this test, it was incumbent upon the Snyders to demonstrate on proper grounds that there is a reasonable prospect or realistic chance of being successful on appeal. Having considered their application, and the oral and written submissions by both parties, my view is that the applicants have failed to meet the threshold set in section 17(1) for leave to appeal to be granted in their favour. To add, the applicants presented no sound nor rational basis to find that there is a reasonable prospect of success on appeal in relation to the July order and reasons.¹¹

[19] Furthermore, there is also no compelling reason why the appeal should be heard. Obviously, if the appeal Court finds in their favour, and sets aside the eviction order, the effect of such order would have potential consequences for the declaratory order granted on 10 July, but this is not a compelling reason why leave to appeal should be granted, especially as the appeal must still be heard and there is no guarantee that the applicants (as appellants) would be successful in such appeal. Accordingly, the

⁹ Section 17(1)(a)(i) and (ii) Superior Courts Act 10 of 2013.

¹⁰ Mont Chevaux, *supra* para [6], paraphrased

¹¹ Four Wheel Drive Accessory Distributors CC v Rattan No 2019

application for leave to appeal will be dismissed.

[20] As for costs, Mr Snyders requested that each party should pay their own costs. The Court, to the extent that it was able to, assisted the applicants, and took a less formalistic approach, as did the first respondent's counsel, mindful that the Snyders are unrepresented litigants. However, this does not absolve them of informing themselves of the requirements and threshold in section 17(1) of the Superior Courts Act, particularly as it was clear that Mr Snyders drafted all the Notices, affidavits and documents in the matters which have been placed before this Court. Another Court may well have struck the application from the roll given all the confusion surrounding it, duplication of documents and incompetent relief sought in the further orders in the Notice of Motion.

[21] Notwithstanding the communication from the Court's Registrar after the first set of incorrect documents, that Mr and Mrs Snyders were urged to obtain legal advice or legal representation for the leave to appeal, they ignored the Court's request or direction and forged ahead with a problematic application, for all the reasons sketched above. In all these circumstances, there is no reason why costs should not follow the result.

[22] In the result, the following order is granted:

The application for leave to appeal is dismissed with costs, to be paid jointly and severally by the First and Second Applicants (scale B).

M PANGARKER
JUDGE OF THE HIGH COURT

Appearances:

For First and Second Applicants: Both in person

For First Respondent: Adv R de Wet

**Instructed by: Christo Marais Attorneys & Conveyancers
STELLENBOSCH**

Per: Ms C Redelinghuys

No other appearances.