



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

DELETE WHICHEVER IS NOT APPLICABLE

(1) REPORTABLE: YES/NO

(2) OF INTEREST TO OTHER JUDGES: YES/NO

(3) REVISED

DATE: 14 AUGUST 2025

SIGNATURE:...

[Redacted Signature]

Case No. 017055/2025

In the matter between:

ADCOCK INGRAM HEALTHCARE (PTY) LTD

FIRST APPLICANT

ADCOCK INGRAM INTELLECTUAL (PTY) LTD

SECOND APPLICANT

And

ASPEN PHARMACARE HOLDINGS GROUP

FIRST RESPONDENT

PHARMACARE LIMITED

SECOND RESPONDENT

In re

ASPEN PHARMACARE HOLDINGS GROUP

FIRST APPLICANT

PHARMACARE LIMITED

SECOND APPLICANT

And

ADCOCK INGRAM HEALTHCARE (PTY) LTD

FIRST RESPONDENT

ADCOCK INGRAM INTELLECTUAL (PTY) LTD

SECOND RESPONDENT

THE REGISTRAR OF TRADE MARKS

THIRD RESPONDENT

Coram: Millar J

Heard on: 13 August 2025

Delivered: 14 August 2025 - This judgment was handed down electronically by circulation to the parties' representatives by email, by being uploaded to the *CaseLines* system of the GD and by release to SAFLII. The date and time for hand-down is deemed to be 09H00 on 14 August 2025.

JUDGMENT

MILLAR J

- [1] On 13 August 2025 I heard an application for leave to appeal against a judgment and order handed down on 12 May 2025 together with an application in terms of section 18(3) of the Superior Courts Act¹ (the Act). Separate judgments will be handed down in respect of each. This judgment is in respect of the application for leave to appeal.
- [2] For convenience I will refer to the parties as they were in the main application save to note that it is the respondents who seek leave to appeal and the applicants who oppose its grant.
- [3] The test for the granting of leave to appeal pertinent to the present matter is set out in section 17(1)² of the Act as follows:

“(1) 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”*

- [4] The application was advanced in terms of section 17(1)(a)(i) only. The application is a comprehensive critique of almost all the findings and conclusions in the judgment. It is neither necessary nor do I intend to traverse each and every one of these.

¹ 10 of 2013.

² See *Fusion Properties 233 CC v Stellenbosch Municipality* 2021 JDR 0094 (SCA) at para [18].

- [5] In its terms, the application for leave to appeal did not record that it was sought in respect of the order granted but rather against the “*judgment*” and the “*findings of fact and rulings of law*” made in the judgment. It is well established that an appeal lies against the order granted by a court and not against the reasons advanced.³
- [6] In their heads of argument, the applicant addressed each criticism with reference to the judgment and argued that these were without merit. It was argued that “*Adcock’s application for leave to appeal is, in essence, a lengthy catalogue of alleged errors..., with no attempt to demonstrate how these purported errors impact or disturb the substantive order.*”
- [7] I have considered the grounds upon which the application has been brought and the reasons given by me in the judgment for the order granted. I have also considered the submissions made by counsel for the granting of leave to appeal on the part of the respondents and those opposing the granting of leave to appeal on behalf of the applicants together with the submissions made in each parties’ heads of argument.
- [8] I am not persuaded that another court would come to a different conclusion and for that reason the application is to be refused. The costs will follow the result.
- [9] In the circumstances, I make the following order:
- [9.1] The application for leave to appeal is refused with costs which costs are to include the costs consequent upon the engagement of 2 counsel where so employed, one of whom is a senior counsel, both on scale C.

³ *Western Johannesburg Rent Board & Another v Ursula Mansions (Pty) Ltd* 1948 (3) SA 353 (A) at 354 and *Tecmed Africa (Pty) Ltd v Minister of Health & Another* 2012 JDR 0821 (SCA) at paras [16]-[17].


A MILLAR
JUDGE OF THE HIGH COURT
GAUTENG DIVISION, PRETORIA

HEARD ON:

13 AUGUST 2025

JUDGMENT DELIVERED ON:

14 AUGUST 2025

IN THE LEAVE TO APPEAL

COUNSEL FOR THE 1ST & 2ND APPLICANTS:

ADV. R MICHAU SC

ADV. J BOOYSE

INSTRUCTED BY:

BOUWERS INC.

REFERENCE:

MR. D BOUWER

COUNSEL FOR THE 1ST & 2ND RESPONDENTS:

ADV. C PUCKRIN SC

ADV. C PRETORIUS

INSTRUCTED BY:

KISCH AFRICA INC.

REFERENCE:

MS. T PRETORIUS