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**IN THE HIGH COURT OF SOUTH AFRICA
EASTERN CAPE LOCAL DIVISION, EAST LONDON**

CASE NO. EL 2025-107385

REPORTABLE

In the matter between:

XTLG CONSULTING AND PROJECTS (PTY) LTD

t/a EXCELLENT SECURITY GUARDS

APPLICANT

and

TYEKANA PROTECTION AND CLEANING (PTY) (LTD)

FIRST RESPONDENT

BUFFALO CITY (TVET) COLLEGE

SECOND RESPONDENT

SHERIFF: BUFFALO CITY

THIRD RESPONDENT

JUDGMENT

APPLICATION FOR LEAVE TO APPEAL

STRETCH J:

[1] On 18 July 2025 this court handed down an interim order in favour of the applicant, pursuant to having heard argument on behalf of the applicant and the two respondents, in what had become a full-blown opposed motion. This order is annexed hereto marked “X”. I shall continue to refer to the parties as they were referred to in the attached order.

[2] On 21 July 2025 the second respondent delivered a request for reasons within the ten-day period stipulated at paragraph 7 of the order. On 22 July 2025 this court received a “notice for leave to appeal” from the first respondent. Ex facie the document, it appears that the third respondent acknowledged receipt of the document on the same day, although there was no indication that the application for leave to appeal had been lodged with the registrar in terms of the rules.¹

The series of events preceding the hearing

[3] On 31 July 2025 this court received heads of argument in support of the application for leave to appeal. On the same day, my clerk sent the following email to the parties, wherein the first respondent was addressed as follows:

‘The second respondent’s request for reasons was filed on 21 July 2025 and was brought to the attention of Judge Stretch when she returned from leave on 28 July 2025. Your client did not request reasons. Instead, your client filed a notice of application for leave to appeal the following day, citing at least seven broad areas of misdirection on the part of the judge. Judge Stretch was only alerted to the fact of the notice and the content thereof on 30 July 2025. Judge Stretch has requested me to point out to you that challenges to the reasoning underpinning a judgment ultimately resulting in an order, in the absence of the reasons and the judgment itself, is premature in the circumstances, and that the application cannot be entertained at this stage.

¹ See s 18(5) of the Superior Courts Act 10 of 2013 read with rule 1 of the uniform rules of this court.

Judge Stretch is seized with complex back-to-back criminal trials for the remainder of this term, and will be out of circulation during the September-October recess. She will nevertheless make her best endeavours to prioritise the furnishing of reasons to the second respondent, which will hopefully enable the first respondent to formulate its grounds of appeal (if any) based on perceived misdirections in the reasoning of the court, and what it did and did not take into consideration as a basis for the order.'

[4] One Phakamisa Sakata (purportedly the first respondent's attorney) immediately responded with the following missive, also by way of email, which I record verbatim:

'The Notice of Leave to appeal is not premature due to absence of reasons. We say that because:

In **Atholl Developments (pty) Ltd v Valuation Appeal Board for the City of Johannesburg and Another [2015] ZASCA**, paragraph 10 Justice Saldulker JA quoted two passages in **Tecmed Africa (Pty) Ltd v Minister of Health @ another [2012] 4 All SA 149 (SCA)**, where his brother Justice Ponnann JA puts it thus (paras 16-17):

'[16] Before us, Counsel was constrained to concede that securing a licence for the use of the machine by Cancare at the Durban Oncology Centre had indeed become academic, That notwithstanding, so he urged upon us, the appeal should nonetheless be entertained. His argument, consistent with the approach adopted in the affidavit filed on behalf of Tecmed on this aspect of the case, amounted to this: the approach and reasoning of the Full Court to the disputed factual issues on the papers would stand and were it not to be set aside by this court, would serve as an insurmountable obstacle in due course to the successful prosecution of its envisaged civil claim against the Minister. In my view for the reasons that follow Counsel's submission lacks merit.

[17] First, appeals do not lie against the reasons for judgment but against the substantive order of the lower court. Thus, whether or not a Court of Appeal agrees with a lower court's reasoning would be of no consequence if the result would remain the same.' (Own underlining)

Justice Saldulker JA further says in Atholl judgment in paragraph 11:

'As the appeal is directed at the reasons as opposed to the substantive order of the court below, there is no proper appeal before us. [1] It must follow that the appeal must be struck off the roll.'

It is therefore, trite that in this regard we refer you to Rule 49(4) and the discussion thereon contained on pages 356 and 357² of Erasmus: Superior Court Practice:

'An appeal can be noted only against the judgment itself (i.e. the substantive order), not against the reasons for judgment and a notice which purports the reasons for judgment is bad.'

We trust the above is in order.

Regards

P. Sakata'

[5] An hour later this court received, again by way of email, the applicant's notice of opposition to the appeal filed by the first respondent, together with a notification that service had been effected in terms of rule 4A(1)(c) of the uniform rules which permits electronic service of court processes. It appeared therefrom that the applicant's main ground of opposition was that my order of 18 July was interim in nature and was thus not appealable; alternatively, that it was not in the interests of justice to allow the first

² The discussion at pages 356 and 357 of Erasmus ironically traverses rule 30 pertaining to irregular proceedings and rule 30A dealing with non-compliance with rules and court orders. A Freudian slip perhaps?

respondent leave to appeal, and that in terms of s 18(2) of the Superior Courts Act 10 of 2013 the purported application for leave to appeal in any event, in the absence of exceptional circumstances, did not suspend this court's interim order dated 18 July 2025.

[6] At midday that same day, and in the exercise of my discretion to regulate the manner in which proceedings are conducted in matters before me and to ensure just and efficient administration of justice, I addressed the parties by way of the following directive:

1. It appears from the correspondence received that the parties intend addressing two points in limine. These points, as I understand them in broad terms, are the following:
 - (a) whether this court's interim order is in fact appealable;
 - (b) whether this court can hear an application for leave to appeal its order, before reasons for that order (which were requested by a party other than the party presently seeking leave to appeal) have been given.
2. It goes without saying that these points in limine need to be disposed of as soon as possible.
3. In the premises, arrangements will be made for my Bisho criminal roll to be interposed next week on either 7 or 8 August 2025, for the parties to argue these points in limine at the East London Tribunal at 14h00 or at 16h30 on either of these days. Regrettably, the criminal roll cannot be interposed before then, as I am seized with continuing the delivery of a lengthy criminal part-heard judgment which is already being dealt with in a piecemeal fashion to accommodate the diaries of multiple legal practitioners.

4. If the parties cannot agree on the proposed dates, I will also be available to hear argument at the East London Tribunal any time from 09h30 onwards on Friday, 22 August 2025.

[7] That was at 12h07 on Thursday, 31 July 2025. No response was forthcoming, until 11h10 on Tuesday, 5 August when the applicant only, indicated its availability to attend the hearing on 7 August 2025 at 14h00 or 16h30. An hour later the second respondent gave notice that it would not be attending pending the receipt of this court's reasons which it had applied for. There was still total silence from the first respondent.

[8] That afternoon this court received a copy of a further email from the applicant to the respondents, placing on record that the second respondent, who had applied for reasons, had not filed an application for leave to appeal and in the circumstances its failure to implement the interim order of 18 July 2025 amounted to contempt. The second point raised was that the first respondent was also in contempt of the order as the application for leave to appeal was irregular and intended to frustrate the applicant, as the application for leave to appeal was filed on an urgent basis in the absence of this court's reasons. The applicant pointed out that in the absence of an objection to the matter being heard on 7 August at 14h00, it intended to, and was preparing to oppose the application for leave to appeal on that date.

[9] That same afternoon my clerk sent the following email to the parties on this court's behalf:

'The purpose of furnishing the parties with alternate dates is so that there can be a joint and definite response. The applicant in the main case has indicated its availability at 14h00 or 16h30 on Thursday, 7 August 2025. The second respondent has declined in the absence of reasons. The first respondent, at whose instance this court has made itself available, has not extended the courtesy of a reply.

In the interim the criminal roll remains suspended. Should my registrar not hear from the first respondent by 16h30, I will take it that the first respondent is not available at 14h00 or 16h30 on 7 August 2025 and the criminal roll for Thursday and Friday will be reinstated’.

[10] No response was received during the stipulated time frame. At midday the following day, being Wednesday, 6 August, this court received a copy of a letter addressed to the first respondent by the applicant, describing the first respondent’s application for leave to appeal as a “phantom” application. Therein it was pointed out that, despite the first respondent being clothed as *dominis litis* in the application for leave to appeal, it had neglected to take charge of its own application and it had failed to confirm its attendance on the scheduled date of 7 August 2025, and its attorneys had not responded to telephonic attempts at communication. It was further stated that it was evident that the first respondent had abandoned its application for leave to appeal. The first respondent was accused of having filed the phantom leave to appeal application to frustrate the execution of the order of 18 July, in that after having been evicted by the third respondent from the premises of the second respondent which it was still occupying, it managed to entrench itself on the premises once again under the ruse of a pending application for leave to appeal. The email advised the first respondent that the applicant would re-instruct the third respondent to re-execute the 18 July order, as it was apparent that the first respondent had abandoned what was nothing more than a phantom application in any event, and that the second respondent was aiding the first respondent by refusing to implement the order. The applicant also criticized the stance which the second respondent had adopted. The email ends with the applicant repeating its commitment to arguing the matter on 7 August 2025, with or without the attendance of the “evasive” first respondent which had abandoned its own appeal.

[11] At 14h05 on the eve of the proposed date of the hearing of the application, the following email was sent by Mr P. Sakata (purportedly on behalf of the first respondent) to the applicant’s office manager, without extending the same courtesy to the court with whom the ultimate duty of finalizing this matter lay:

'Good Day Sirs

I have noted your emails.

Kindly be advised that I was in Matatiele for 2 days and as such, I couldn't access my mails due to network challenges.

Please be advised that, we confirm our availability for the proposed date of the 7th of August 2025 at East Tribunal at 14h00

I hope the above is in order

Regards

P.Sakata'

[12] It was only due to the applicant's office manager advising this court that the first respondent had now made itself available, that this court knew, for the first time, that the relevant parties were now *ad idem* regarding the time and date of the hearing of the application the very next day, and in the interests of justice, expediency and fairness to the litigants, this court once again re-arranged its schedule to accommodate the first respondent.

[13] Sadly, the reliable conclusion of what would otherwise be a relatively simple arrangement by legal practitioners, proved too good to be true. On Thursday, 7 August 2025 at 08h45 the first respondent's attorney shared the following news. The email is copied verbatim herein:

'Good Day Sirs

Kindly be informed that, the First Respondent wouldn't not be able to proceed with today's matter after communicating with our Counsel who confirmed that he's not available for today's matter.

Kindly note further that, yesterday's communication was made before communicating with our counsel.

I have communicated with the Applicant to tender the wasted (sic) costs for today.

I hope the above is in order

Regards

P.Sakata'

[14] This was confirmed in a WhatsApp message to my clerk which reads word-for-word, as follows:

'Good Morning Delene its Mr Sakata for the first respondent an applicant for the leave to appeal matter, I've send you an email copied other parties to inform the judge that we won't be able to proceed with the matter today but we have advised other parties that we would tender wasted (sic) costs for today, kindly advise the judge to proceed with the criminal matters for today we will be available for 22nd August thanks in advance.'

[15] The email elicited the following response from the applicant's attorneys, some three hours prior to the scheduled time for the hearing of the application. The rendition below is also a verbatim one:

'Dear Mr Sakata

Your email under reply is noted.

1. As per your confirmation of your attendance to court today, the 7th of August 2025 at 14h00, we have attended to the necessary preparations and we shall be in court at 14h00 to argue the matter.
2. We are opposed to any proposal for postponement, as we hold instructions to proceed and oppose your application for leave to appeal, we further hold instructions to request the above honourable court to grant punitive cost order against yourselves including ***de bonis propis*** (sic) cost against your law firm Messrs O'Reilly Attorneys, for the same reasons you know as to hoe (sic) you have conducted this litigation:
 - that your law firm has been evasive in the conduct of this litigation;
 - That your Mr Sakata has on numerous occasions presented the application for leave to appeal to the Sheriff, preventing the Sheriff from executing the court order before the leave to appeal was filed, issued and served;
 - That you have ignored all correspondences regarding the arrangement of the hearing of your application for leave to appeal as per the proposed dates by the Judge's clerk and that you only confirmed your availability to attend court yesterday on the 6th of August 2025
 - That only today, the 7th of August 2025, you now request for the postponement of the matter.
3. Our client is prejudiced by your last-minute request for postponement and is therefore opposed to any further postponement and the legal team of Excellent Security Services ("first respondent in the application for leave to appeal) have descended³ to East London this morning.

³ Due to the approbating and the reprobating on the part of the first respondent's attorney, the applicant's counsel, who also appeared in the application before me resulting in the 18 July order, was constrained to

4. We have not received any formal correspondence from your Law Firm, Messrs O'Reilly Attorneys other than from your GMAIL account and on numerous occasions we have attempted to call this Law Firm without success and when we were answered yesterday you were not known by the secretary, hope you have explanation for this.

We hope you will find the above to be in order.

Kind regards

MPI

Madlanga and Partners Inc Attorneys

Anele Dikane (Mr)

Office Manager

...

SANDTON

Johannesburg

...'

[16] It is because of this last piece of correspondence and in particular the threatened costs implications, that this court has been constrained to devote the best part of this judgment to flurries of emails⁴, instead of applying its mind to the facts of the application itself and to the law, which remains, as I have always understood it, the single most important function of a judge.⁵

The hearing itself

make last minute arrangements to fly to East London from Johannesburg, with due consideration to the fact that flights directly to East London are relatively scarce.

⁴ The list of emails copied to this court is not exhaustive.

⁵ I will not even begin to burden this judgment with the further time wasted at the hearing of this application with respect to the persistent difficulties this court has consistently experienced with putting into effective application the passionately celebrated launching of Caselines in the Eastern Cape.

[17] The applicant's and the second respondent's legal team attended the hearing⁶. Mr Sakata, purportedly on the instructions of the first applicant, attended to confirm that counsel who had argued the application before me was not available. Mr Sakata did not avail himself of the opportunity to instruct a legal practitioner with right of appearance to apply for a postponement or to substitute the first respondent's counsel of choice. Only the applicant presented argument at the hearing of the matter. When I invited the second respondent's counsel to participate, as the order I would make may impact on the second respondent, counsel, upon having taken instructions, confirmed that he was only there for purposes of what I will loosely describe as a watching brief. I now proceed to deal with the two points in limine.

Can a party apply for leave to appeal when reasons are about to follow?

[18] The answer is clearly no. Rule 49(1) of the uniform rules, dealing with civil appeals from the high court, reads as follows:

- (a) When leave to appeal is required, it may on a statement of the grounds therefor be requested at the time of the judgment or order.
- (b) When leave to appeal is required, and it has not been requested at the time of judgment or order, application for such leave shall be made and the grounds therefor shall be furnished within fifteen days after the date of the order appealed against: *Provided that when the reasons or the full reasons for the court's order are given on a later date than the date of the order, such application may be made within fifteen days after such later date: Provided further that the court may, upon good cause shown, extend the aforementioned period of fifteen days.* (italics added)

[19] It goes without saying that the period within which leave may be applied for, would not have been extended to allow for the provision of reasons, if reasons were not

⁶ I was advised by the second respondent's counsel that it was in attendance as a matter of courtesy, and that the second respondent did not wish to enter the fray before having received the reasons which it had duly applied for.

required. It is as simple as that. Insofar as it may be necessary to traverse the cases referred to by the first respondent in the emailed missive informing this court that it is misguided, these cases deal with actual appeals and not applications for leave to appeal, and are distinguishable. I have no doubt in any event, that the courts dealing with those appeals would, as a matter of course, have had access to the judgments and reasons of the courts below, and not just single documents reflecting orders.

[20] Reasons for orders are not only given for the parties to consider their appealability. They are at the very heart of judicial function and a salutary principle or rule of practice in our jurisprudence. Where a matter is opposed and the issues have been argued, as was the case before I made the 18 July order, litigants are not only entitled to be informed of the reasons for the judge's decision, but should the matter be taken on appeal, the appeal court has a similar interest in knowing why the judge who heard the matter made the order which he did.⁷

[21] As stated in the commentary to rule 49, litigants are ordinarily entitled to reasons for a judicial decision following upon a hearing, and when a judgment is appealed, written reasons are indispensable. Failure to supply them will usually be a grave lapse of duty, a breach of a litigant's rights, and an *impediment* to the appeal process.⁸

[22] There are broader considerations as well. It is in the interests of the open and proper administration of justice that the courts state publically the reasons for their decisions. A statement of reasons gives some assurance that the court gave due consideration to the matter and did not act arbitrarily. As stated by the Honourable M.M. Corbett, this is important for the maintenance of public confidence in the administration of justice.⁹

⁷ See *Botes v Nedbank Ltd* 1983 (3) SA 27 (A) at 27H -28A

⁸ Erasmus: Superior Court Practice (2ed) Volume 2, Service 20, 2022 D1-663 (Juta). See also *Strategic Liquor Services v Mvumbi NO and Others* 2010 (2) SA 92 (CC) at 96G -97A; *Commissioner, South African Revenue Service v Sprigg Investment* 117 CC t/a *Global Investment* 2011 (4) SA 551 (SCA) at 561A-E.

⁹ Extract from the address by the former Chief Justice of the Supreme Court of South Africa at the first orientation course for new judges held at Magaliesberg on 21 July 1997.

Is the 18 July order appealable?

[23] It is not in dispute that the 18 July order is an interim or an interlocutory order not having the effect of a final judgment. It is intended to preserve the status quo ante pending the finalization of the review proceedings set forth in part B of the relief which the applicant sought, resulting in the 18 July order. Upon any conceivable reading of the order, the applicant has not been awarded final relief. I say this because (a) should the reviewing court find no flaws in the bidding process, the applicant must forfeit the interim relief in favour of the reinstatement of the first respondent, and (b) should the reviewing court find that the bidding process was flawed, the applicant must likewise forfeit the interim relief so that the post which forms the subject matter of the bid evaluation process can be re-advertised.¹⁰

[24] As pointed out on the applicant's behalf, Harms AJA in *Zweni v Minister of Law and Order*,¹¹ after having comprehensively reviewed the authorities, said the following:

'In the light of these tests and in view of the fact that a ruling is the antithesis of a judgment or order, it appears to me that, generally speaking, a non-appealable decision (ruling) is a decision which is not final (because the Court of first instance is entitled to alter it), nor definitive of the rights of the parties nor has the effect of disposing of at least a substantial portion of the relief claimed in the main proceedings.'

¹⁰ In brief, the applicant was contracted with the second respondent to provide security and guarding services. The post was re-advertised, resulting in the applicant's post being substituted by the first respondent, despite the applicant having participated in the bidding process. The applicant sought reinstatement (part A of the application) pending the institution and finalisation of review proceedings (part B) of the entire bid adjudication and evaluation process. For reasons which I have not had the opportunity to finalise due to the present application for leave to appeal, the applicant was reinstated pending the finalization of the review, which proceedings I am advised, the applicant has instituted with the review matter having been set down for hearing in November this year.

¹¹ 1993 (1) SA 523 (A)

[25] Whether the 18 July order falls within this definition has largely become academic. Since *Zweni's* advent, the classification of an order as interim or interlocutory, although instructive, is no longer regarded as finally exhaustive or solely determinative of its appealability. In *City of Tshwane Metropolitan Municipality v Afriforum and Another*,¹² the Constitutional Court emphasized that the “interests of justice” is the primary consideration for appealability, even for interim orders. Neither of the respondents are before me to contend that it is in the interests of justice that an application for leave to appeal be heard against the interim order of 18 July. Notwithstanding this, I am in any event of the view that it is not in the interests of justice to accommodate the hearing of an application for leave to appeal the interim order. I say this, because, what *is* in the interests of justice in the circumstances of this case, is that the review application be determined to finality, particularly in that the second respondent is an organ of state, which is accountable for the advertising, adjudication and evaluation of tenders for public posts, and is bound to ensure that it is done in a manner which is both just and equitable. It is undesirable, once the status quo ante has been restored as an interim measure to ensure that this has been done, for the period between the granting of interim relief and the finalization of the matter, to be continuously interrupted and muddled with further applications, which can only result in a ping-pong situation of uncertainty and instability. This is why the successful party has been placed on strict and constricting terms to finalise the matter, which terms I am advised, the applicant has complied with, despite experiencing difficulties in obtaining the requisite record in terms of rule 53 from the second respondent.

[26] As I have mentioned, the relief which has been granted is not unduly harsh with respect to the first respondent. If, at the end of the day it is found that the entire review was a waste of time, money and valuable resources, the first respondent will not only be entitled to reinstatement, but will also be entitled to recoup its costs, which is why the order of 18 July specifically caters for costs to be reserved *pending* the outcome of the review application. Indeed, should it transpire that the applicant's application for review was nothing more than a vexatious, litigious and frivolous frolic, the first respondent

¹² 2016 (6) SA 279 (CC)

would be entitled, if so advised, to consider instituting a claim in respect of any damages it may have suffered as a result of this court having taken the interim measure of restoring the status quo ante in the applicant's favour.

[27] For the purposes of this judgment, and because there is nothing before me to gainsay the complaint that the first respondent has prevented the third respondent from executing the 18 July order, under the ruse of a premature and irregular application for leave to appeal, I intend also addressing the issue of whether the purported application for leave to appeal suspends this interim order, as requested to do by the applicant due to the frustrations it is currently experiencing.

[28] Clearly it does not. The relevant subsections of s 18 of the Superior Courts Act, specifically dealing with the circumstances under which a decision may be suspended pending appeal, read as follows:

- (1) Subject to subsections (2) and (3), and unless the court under exceptional circumstances orders otherwise, the operation and execution of a decision which is the subject of an application for leave to appeal or of an appeal, is suspended pending the decision of the application or appeal.
- (2) Subject to subsection (3), unless the court under exceptional circumstances orders otherwise, the operation and execution of a decision that is an *interlocutory order*¹³ (emphasis added) not having the effect of a final judgment, which is the subject of an application for leave to appeal or of an appeal, is *not suspended* pending the decision of the application or appeal.
- (3) A court may only order otherwise as contemplated in subsection (1) or (2), if the party who applied to the court to order otherwise, in addition proves on a balance of probabilities that he or she will suffer irreparable harm if the court does not so order and that the other party will not suffer irreparable harm if the court so orders.

¹³ As in the case before me.

[29] As is clear from subsections (2) and (3) of s 18 the onus for suspending the order presents an insurmountable hurdle to cross. Firstly, the successful applicant must show exceptional circumstances. Secondly, that it will suffer irreparable harm if the order is not suspended. Thirdly, that the party in whose favour the order stands, will not suffer irreparable harm if the order is suspended. These factors are conjunctive. To add to this the Superior Court Act offers an aggrieved party an automatic and urgent right of appeal.

[30] I have already touched on aspects such as exceptional circumstances and irreparable harm. I have done so despite the fact that nothing to this effect has been placed before me by the first respondent, and do not believe that I need to delve any further. It goes without saying that both points in limine must be decided in the applicant's favour.

Costs

[31] The applicant initially prevailed upon me to make a punitive costs order against Mr Sakata in his capacity as the first respondent's legal practitioner, and/or against the law firm he purportedly represents. However, at the time that these submissions were made, the practitioner had already left the court room. Whilst I am off the view that such an order may well be appropriate in the circumstances of this case, and with particular reference to the historical email exchange, the applicant's counsel accepted that the practitioner in question was entitled to the exercise of certain rights including that of legal representation before such an order could be made, and opted for an order of attorney and own client costs against the first respondent.

[32] To my mind, the applicant is entitled to such a costs order. I would, in any event have made an order to this effect even if I were not pressed to do so. The first respondent's conduct throughout has been in bad faith and an abuse of the court process, justifying an order which goes beyond the usual party-and-party scale. The issue of costs lies within the court's discretion. In suitable circumstances, a court is also

entitled to make a punitive costs order to express its disapproval of a litigant's conduct. This is one of those circumstances. It is shockingly inappropriate, and quite frankly unheard of for a litigant, in a casual emailed missive, to dismiss a decision made by a judge as was done by Mr Sakata on 31 July 2025, and to refer to its own ill-informed opinion as "trite".¹⁴ It is likewise unprofessional to simply ignore court correspondence, using unavailability for days on end due to "network" issues. It is also inappropriate and unprofessional to inform a court, by way of a WhatsApp message to its clerk or in any other manner, that it may now continue with its other tasks until 22 August, being the applicant's unilateral date of choice on which it would again require the services of the court. As I have said, this type of conduct attracts a *de bonis propriis costs* order against the practitioner in question. Whilst I do not intend making such an order for the reasons already stated, this judgment will be referred to the Legal Practice Council responsible for regulating the professional conduct of practitioners in this Division. Finally, I will also make an order that this judgment be placed before Appels JA, who I am advised has reserved judgment in the applicant's contempt of court application against the first respondent, lest two judges in the same Division are tempted to make orders which may result in a duplication or otherwise untenable situation.

Order

1. It is declared that:

1.1 The application for leave to appeal, in the absence of written reasons for the order (under case no. 2025-107385, dated 18 July 2025), is prematurely brought before this court.

1.2 The aforesaid order of 18 July 2025 is interim and is not appealable.

¹⁴ Insofar as it may be necessary to explain the nature and extent of the insult, "trite law" refers to well-established, settled legal principles that are considered commonplace and obvious within a particular legal system, and are so widely accepted as to be quite incapable of being disputed. Differently put, what it says in no uncertain terms is that this is a very basic and fundamental legal tenet, and anyone who dares to suggest otherwise demonstrates a lack of intelligence and common sense.

- 1.3 The aforesaid order is not suspended and is fully operative pending the final determination of part B of the application which preceded the order, part B being the review application set down for 27 November 2025.**
- 2. The first respondent is ordered to pay the costs of the application for leave to appeal on the scale as between attorney and own client.**
- 3. The registrar is directed to place a copy of this judgment before the Eastern Cape branch of the Legal Practice Council, 4[...] P[...] Street, Berea, East London.**
- 4. The registrar is directed to forthwith make a copy of this judgment available to Madam Justice Appels AJ.**

**I.T. STRETCH
JUDGE OF THE HIGH COURT
EAST LONDON**

11 August 2025

APPEARANCES:

*Counsel for the applicant: L. Mnqandi
Instructed by Madlanga and Partners Inc.
EAST LONDON*

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Ref. XTLG_Tyekana – 09/07/25

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Date argued: 07 August 2025

Date judgment handed down: 11 August 2025

Due to the present systemic difficulties at the East London and Bisho High Courts with the optimum utilization of CaseLines filing, this order is handed down electronically by emailing it to the parties' respective attorneys on 11 August 2025, which shall be deemed to be the date of the handing down of the order. It is recorded that only the applicant was represented at the hearing. The representatives of the respondents are cited for purposes of recording their email addresses only.