



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

CASE NO: 28819/2021

(1)	REPORTABLE: NO
(2)	OF INTEREST TO OTHER JUDGES: NO
(3)	REVISED.
	
DATE 27/08/2025	LENYAI J

TNBH (PTY) LTD

First Applicant

MARIUS STRYDOM

Second Applicant

And

**STANDARD BANK OF
SOUTH AFRICA LIMITED**

Respondent

Delivered: This judgment is handed down electronically by circulation to the Parties/their legal representatives by email and by uploading to Caselines. The date and time of hand-down is deemed to be 14:00 on 27 August 2025.

JUDGMENT

LENYAI J

1. This is an application for leave to appeal brought by the applicants against the whole judgment and order granted by me on the 19th December 2024.
2. The test for the granting of leave to appeal pertinent to the present matter is set out in section 17(1) of the Superior Courts Act 10 of 2013 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.”

3. I have considered the grounds upon which the application has been brought and the reasons given by me for the judgment and the order. I have also considered the submissions made by counsel for the granting of leave to appeal on the part of the applicants and those opposing the granting of leave to appeal on behalf of the respondent.
4. It is noteworthy to mention that the applicants contend that judgment was delivered whilst an application by the second applicant to amend his plea was still pending. During the proceedings, the court enquired if this fact was brought to its attention and it was established that none of the parties had brought this issue to the court's attention.
5. In the matter of **Bechan & Another v SARS Customs Investigations Unit and Others (1196/2022) [2024] ZASCA20; 2024 (5) SA 1 (SCA); 86 SACT557 (5 March 2024)** at paragraph 22, the court stated that:

“For the sake of completeness, it is necessary to record that as preparations for the delivery of this judgment were being made the appellant's attorneys advised the Court that on 2 February 2024 the High Court set aside the search and seizure warrant. This was consequent to a separate application instituted by Bullion Star. The Court was further advised

by SARS's attorneys that it was considering an appeal against the order. It is a well-established general principle that this Court decides whether the judgment appealed against from is right or wrong according to the facts in existence at the time it was given and not according to new circumstances that came into existence afterwards. It follows that the subsequent setting aside of the warrant by the High Court is irrelevant to this appeal."

6. It has been established that the subsequent applications to amend the pleadings by the applicants was never brought to the court's attention by either of the parties after the court has reserved judgment. I echo the dictum of the SCA in the **Bechan** matter mentioned in paragraph 5 above and state that the court decided the matter on the facts that were before it at the time the judgment was reserved and could not be expected to have considered new facts and circumstances that it was not aware of.
7. I am not persuaded that another court would come to a different conclusion or that there is some other compelling reason why leave to appeal should be Granted
8. In the circumstances, I make the following order:
 - 8.1 The application for leave to appeal is refused.
 - 8.2 The applicants are ordered to pay the costs of the respondent on scale B.


[Redacted signature area]

MMD LENYAI J
JUDGE OF THE HIGH COURT
GAUTENG DIVISION, PRETORIA

Appearances

Counsel for Appellants	:	Adv April
Instructed by	:	McCarthy Cruywagen

Counsel for Respondent.	:	Adv JH Jooste
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Instructed by	:	Findlay & Niemeyer Inc
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Date of hearing	:	21 August 2025
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Date of Judgement	:	27 August 2025
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