

REPUBLIC OF SOUTH AFRICA

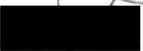


IN THE HIGH COURT OF SOUTH AFRICA

GAUTENG LOCAL DIVISION JOHANNESBURG

CASE NO: 2024/084385

DOH: 15 September 2025

(1)	REPORTABLE: YES / NO
(2)	OF INTEREST TO OTHER JUDGES: YES/NO
(3)	REVISED.
 SIGNATURE 19/09/2025 DATE	

NUHARVEST (PTY) LTD
JARED DEAN PETERS
TANNER ARON PETERS

First Applicant
Second Applicant
Third Applicant

And

ADEL DOREEN MCQUARRIE N.O

Respondent

*(In her nominal capacity as the Court appointed
 Receiver of the assets of the Dennis Ronald Peters Will
 Trust IT No. T007360/2001)*

This Judgment was handed down electronically and by circulation to the parties' legal representatives by way of email and shall be uploaded on Caselines. The date for hand down is deemed to be on 19 September 2025.

JUDGMENT

MALI J

Introduction

- [1] This is an application by the first, second and third applicants ("the applicants") for leave to appeal to the full bench of this Court, alternatively to the Supreme Court of Appeal against the whole of the Judgment and order dated 12 August 2025.

The Applicants Grounds for Appeal

- [2] The applicants' grounds of appeal are that the court erred in finding as follows:

2.1 That there was no evidence that the respondent had failed to exercise her discretion as the Court-appointed receiver of the assets of the Dennis Peters Will Trust ("the Trust") reasonably and honestly. Furthermore, that since 2021 the respondent had only managed to transfer one property when, in fact, the respondent has to date failed to transfer any of the Properties to the beneficiaries of the Trust namely the second and third applicants.

2.2 That in terms of paragraph 1.4.16 of the order of His Lordship Mr Justice Manoim ("the Order"), the respondent was only entitled to distribute the assets of the Trust or the value of such assets to the beneficiaries of the Trust, namely the second and third applicants, in equal shares, after all the debts due and all liabilities owed by the Trust had been paid or settled.

- [3] In essence all the findings in the judgment is challenged. I am not going to overburden this judgment with repetitions.

Applicable Law

- [4] Section 17 of the Superior Courts Act 10 of 2013 ("the Act") reads in relevant parts as follows:

"Leave to appeal may only be granted where the Judge or Judges concerned are of the opinion that:

- 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] In **MEC for Health, Eastern Cape v Mkhitha [2016] ZASCA 176** it was held as follows:

"[16] Once again, it is necessary to say that leave to appeal, especially to this court, must not be granted unless there truly is a reasonable prospect of success. Section 17(1)(a) of the Superior Courts Act 10 of 2013 makes it clear leave to appeal may only be given where the judge concerned is of the opinion that the appeal would have a reasonable prospect of success; or there is some other compelling reason why it should be heard."

[17] An applicant for leave to appeal must convince the court on proper grounds that there is a reasonable prospect or realistic chance of success on appeal. A mere possibility of success, an arguable case or one that is not hopeless, is not enough. There must be a sound, rational basis to conclude that there is a reasonable prospect of success on appeal."

Discussion

- [6] The applicants' case has always been about the court order of Manoin J as discussed in the judgment. In this application they seek to make a new case entirely based on Asset-for-Share Agreement ("the Agreement"), thus arguing that because the respondent had advised the applicant on the Agreement therefore the trust property can simply be transferred. The

transfer must happen without the respondent exercising her fiduciary duties in a reasonable manner.

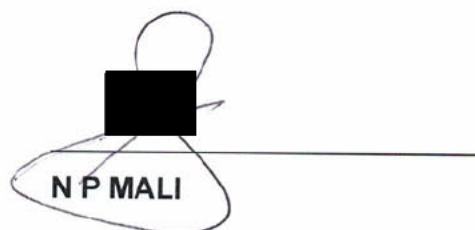
- [7] There is also an issue of factual error, that the respondent had transferred a single property. This does not take matters any further. I do not intend to repeat what is already alluded to in the judgment. The crux of the matter is that the applicants have refused to provide a perfect bank guarantee to cover the trust's debts. This puts the respondent in a precarious position and the court could not sanction such.

Conclusion

- [8] For the foregoing reasons the applicants have not shown that other court would come to a different conclusion. I cannot find any prospects of success.
- [9] Having regard to the above, leave to appeal cannot succeed.

ORDER

1. Leave to appeal is dismissed with costs on Scale C.

A handwritten signature in black ink, consisting of a stylized 'N' and 'P' followed by 'MALI'. The signature is written over a horizontal line.

JUDGE OF THE HIGH COURT

Date of Hearing:

15 September 2025

Date of Judgment:

19 September 2025

Appearances**For the applicant**

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