

REPUBLIC OF SOUTH AFRICA



IN THE HIGH COURT OF SOUTH AFRICA
GAUTENG DIVISION, JOHANNESBURG

(1) REPORTABLE: **NO**
(2) OF INTEREST TO OTHER JUDGES: **NO**
(3) REVISED: **NO**

Date: **01 October 2025** Signature: _____

Case no. **2022/23073**

In the matter between:

GREAT CORMORANT INVESTMENTS 75 (PTY) LTD

APPLICANT

And

EKURHULENI METROPOLITAN MUNICIPALITY

RESPONDENT

Coram: **Dlamini J** (*Via MS Teams*)

Date of hearing: 19 September 2025

Delivered: 01 October 2025 – This judgment was handed down electronically by circulation to the parties' representatives via

email, by being uploaded to *CaseLines*, and by release to SAFLII.
The date and time for hand-down is deemed to be 10:30 on 01
October 2025.

JUDGMENT

DLAMINI J

Introduction

- [1] This is an application for leave to appeal the judgment and order that I handed down on 25 February 2025.

- [2] In the main action, the respondent, Ekurhuleni Metropolitan Municipality ("EMM"), instituted proceedings against the applicant ("Cormorant"), claiming payment in the amount of R12,103,547.16 for alleged arrears of rental. breach of the lease agreement. Having entered an appearance to defend, the applicant then raised a special plea of prescription, alleging that a substantial portion of the respondent's claim had become prescribed.

- [3] The plaintiff (respondent) denied that its claim had prescribed and insists that the debt became due only when the arbitration award was delivered on 18 September 2020.

- [4] By agreement, the parties agreed that the applicant's special plea of prescription be separated and dealt with by way of a stated case and argument.

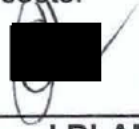
- [5] Having considered the matter, I dismissed the applicant's point *in limine*. Aggrieved by this decision, the applicant filed this application for leave to appeal. The applicant contends that this court erred and is therefore seeking leave to appeal against my entire order and judgment.

- [6] The respondent opposes this application for leave to appeal.
- [7] Section 17 of the Superior Court Act stipulates that leave to appeal may only be granted where the judge or judges concerned are of the opinion that:
- 7.1. *The appeal would have reasonable prospects of success; or*
- 7.2. *There is some other compelling reason why the appeal should be heard, including conflicting judgments on the matter under consideration.*
- [8] This simply illustrates that a court may not grant leave to appeal where the threshold that warrants such leave has not been met by the applicant.
- [9] I have considered the applicant's grounds of appeal and the submissions made by both the applicant and the respondent in this application for leave to appeal. I am satisfied that I have dealt extensively with all the appellant's submissions in my judgment, and I found them to be meritless and dismissed them. Thus, it will serve no purpose for me to repeat them.
- [10] Having regard to the provisions of Section 17 and the factual matrix of this matter, I am not persuaded that there are any reasons or extraordinary circumstances that warrant the grant of leave to appeal. There are no compelling reasons why the appeal should be heard, including conflicting judgments on the matter under consideration.
- [11] My finding is that the applicant has failed to demonstrate that another court would reach a different decision and that the applicant should be granted leave to appeal.
- [12] In light of all the circumstances alluded to above, it is my view that the applicant has not presented any facts demonstrating that it has any prospects of success; therefore, it would not serve the interest of justice to grant leave to appeal to the applicant.

[13] I therefore make the following order.

ORDER

1. The applicant's application for leave to appeal is dismissed with costs.

A handwritten signature in black ink, appearing to be 'J Dlamini', is written over a black rectangular redaction box.

J DLAMINI
Judge of the High Court
Gauteng Division, Johannesburg

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