



IN THE HIGH COURT OF SOUTH AFRICA
GAUTENG DIVISION, PRETORIA

(1) REPORTABLE: YES / NO	
(2) OF INTEREST TO OTHER JUDGES: YES / NO	
(3) REVISED	
DATE : 15 October 2025	SIGNATURE

CASE NO: 112707/23

HEARD ON: 16 October 2025
JUDGMENT: 16 October 2025

In the matter between:-

SELONA ETHYPERSADH

APPLICANT

AND

THE MINISTER OF POLICE NO

FIRST RESPONDENT

SERGEANT SYDNEY PHAHLANE NO

SECOND RESPONDENT

THE MAGISTRATE PRETORIA NORTH NO

THIRD RESPONDENT

IN RE:

THE MINISTER OF POLICE NO

FIRST APPELLANT

SERGEANT SYDNEY PHAHLANE NO

SECOND APPELLANT

THE MAGISTRATE PRETORIA NORTH NO

THIRD APPELLANT

AND

SELONA ETHYPERSADH

RESPONDENT

JUDGMENT – LEAVE TO APPEAL

Strijdom J

1. In this matter the Applicants (Appellants) apply for leave to appeal to the Full Court of this Division, alternatively to the Supreme Court of Appeal, against the whole of my Judgment and order delivered on 5 June 2025.
2. The application for leave to appeal is opposed by the Respondent.
3. The grounds of appeal are comprehensively set out in the application for leave to appeal and I do not intend to repeat same.
4. Section 17(1)(a) of the Superior Courts Act 10 of 2013 provides that leave to appeal may only be granted where the Judge or Judges concerned are of the opinion that the appeal would have a reasonable prospect of success, or if there is some compelling reason why the appeal should be heard including conflicting judgments on the matter under consideration.

5. With the enactment of section 17 of the Act, the test has now obtained statutory force and is to be applied using the word “would” in deciding whether to grant leave. In other words, the test is “would another Court come to a different decision.”
6. If a reasonable prospect of success is established, leave to appeal should be granted. The Court must assess the grounds on which leave to appeal is sought against the facts of the case and the applicable legal principles to ascertain whether an Appeal Court would interfere in the decision in question.¹
7. 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. The Court must then enquire whether there is some other compelling reason for the appeal to be heard.²
8. In respect of the application for leave to appeal against the whole of my judgment the applicants raised as grounds a challenge to every finding made in the judgment. The argument on this aspect was essentially a re-presentation of that which was advanced during the main application, and which was dealt with in the judgment.
9. I have considered the grounds upon which this application for leave to appeal has been brought and the arguments advanced by the parties at the hearing. I have also considered the reasons for my judgment on the main application and am of the view that there is neither a reasonable prospect that another Court would come

¹ See *Celosia Shipping Ltd v MV “East Ayutthaya” and Others 2025 (KZD)*

² See *Minister of Justice and Constitutional Development and Others v Southern Africa Litigation Centre and Others 2016 (3) SA 317 (SCA) at 330 C*

to a different conclusion nor an arguable point of law or other compelling reason which merits the granting of leave to appeal.

10. In the circumstances, it is ordered that:

11. The application for leave to appeal is dismissed with costs.



Strijdom JJ

Judge of the Hight Court, South Africa

Gauteng Division, Pretoria

Appearances:

For the applicants: Adv S Buthelezi

Instructed by: State Attorney, Pretoria

For the respondent: Adv N Jagga

Instructed by: Vardakos Attorneys