

IN THE HIGH COURT OF SOUTH AFRICA

LOCAL DIVISION, JOHANNESBURG

CASE NO: 018563/2025

DATE: 2025-10-17

DELETE WHICHEVER IS NOT APPLICABLE
(1) REPORTABLE: NO
(2) OF INTEREST TO OTHER JUDGES: NO
(3) REVISED

In the matter between



SIGNATURE

DATE: 17 October 2025

MINISTER OF JUSTICE AND CONSTITUTIONAL

DEVELOPMENT AND OTHERS

Applicant

and

MAXWELL MAMIANE AND ANOTHER

Respondent

J U D G M E N T

LEAVE TO APPEAL

WILSON J: On 4 September 2025, I handed down judgment making final an interim interdict I had earlier granted against the applicants, the Minister of Police, and Lt. Col. Fatima Gaffoor.

The interdict restrained Lt. Col. Gaffoor from harassing and intimidating Mr and Mrs Mamiane in the respects set out in the order, and directed the Minister of

Police to take all the administrative and other steps necessary to ensure that neither Lt. Col. Gaffoor nor any other member of the police service participated in such harassment or intimidation. The Minister and Lt. Col. Gaffoor now apply for leave to appeal against my decision.

At the outset of his argument, I put to Mr Mathibedi, who appeared together with Ms Jaga for the Minister and for Lt. Col. Gaffoor, that the application for leave to appeal had left unchallenged five critical factual conclusions I drew in paragraph 17 of my judgment.

The first of these was that two of the messages that I found to be harassing and intimidatory were sent to Mr and Mrs Mamiane from a number linked to Lt. Col. Gaffoor. The second fact I found was that all the messages referred to cases lodged by Mr Mamiane, apparently against the author of the messages. The third fact I found was that one of the messages refers to its author as "GAFFOOR", which is of course Lt. Col. Gaffoor's surname. The fourth fact I found is that one of the messages refers to Mr Mamiane being followed from Parkview where Lt. Col. Gaffoor is stationed. The fifth fact I found is that one of messages refers directly to court action in circumstances where Mr Mamiane had recently obtained a protection order against Lt. Col. Gaffoor.

Despite his helpful submissions, Mr Mathibedi was

unable to point to any aspect of the application for leave to appeal which squarely challenged any one of these five factual findings. It seems to me that if those five findings are left unchallenged, there are no prospects of success on appeal.

Any prospect of success there may be is particularly weak given that the applicants wish to appeal against a conclusion of fact I drew after hearing oral evidence. The test on appeal in these circumstances is not merely whether the trial court was wrong but whether the trial court's factual conclusions were clearly wrong in the sense that they could not be justified in light of other facts that the trial court found or which appear from the record itself. Courts of appeal generally do not interfere with factual conclusions drawn by trial courts after all evidence has been led and probabilities, credibilities and reliability have been assessed.

For those two reasons, being the absence of any challenge to the conclusions drawn in paragraph 17 of my judgment and the stringent test to be met in an appeal against a finding of fact, the appeal proposed stands no prospect of success.

Accordingly –

1. The application for leave to appeal against my judgment and order of 4 September 2025 is dismissed;

2. The applicants will pay the costs of this application. Those costs will be limited to the disbursements reasonably incurred by Mr and Mrs Mamiane in opposing the application for leave to appeal.



.....
WILSON J
JUDGE OF THE HIGH COURT
17 October 2025