



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

CASE NUMBER: 2022-012193

- (1) REPORTABLE: NO
(2) OF INTEREST TO OTHER JUDGES: NO
(3) REVISED: YES.

DATE: 24/10/2025




In the matter between: -

**THE CITY OF JOHANNESBURG METROPOLITAN
MUNICIPALITY**

First applicant

**THE MUNICIPAL VALUER: THE CITY OF
JOHANNESBURG METROPOLITAN MUNICIPALITY**

Second applicant

and

**THE VALUATION APPEAL BOARD OF THE CITY OF
JOHANNESBURG**

First respondent

BLW PROPERTIES (PTY) LTD

Second respondent

**J U D G M E N T :
APPLICATION FOR LEAVE TO APPEAL**

DELIVERED: This judgment was handed down electronically by circulation to the parties' legal representatives by e-mail and publication on CaseLines. The date and time for hand-down is deemed to be 10h00 on 24 October 2025.

F. BEZUIDENHOUT AJ:

INTRODUCTION

[1] This is an application for leave to appeal against a judgment and order I granted on the 18th of July 2024 where I dismissed the application brought by the City of Johannesburg Metropolitan Municipality. For the sake of convenience, the parties will be referred to as in the main application.

[2] The grounds upon which the applicants rely, have been set out in detail in the notice of application for leave to appeal and I do not intend to repeat them here.

APPLICATIONS FOR LEAVE TO APPEAL -THE LEGAL PRINCIPLES

[3] The applicants contend that leave should be granted as there is reasonable prospects of success on appeal, there are compelling reasons why an appeal should be heard and it is in the interests of justice to grant leave.

[4] The application for leave to appeal must be considered against the backdrop of the prevailing statutory requirements.

[5] The applicants seek leave to appeal in terms of the provisions of section 17(1)(a)(i) of the Superior Courts Act.¹

¹ Act 10 of 2013.

[6] The test for granting leave to appeal has become more stringent and a threshold for granting leave more onerous.²

[7] In *Mont Chevaux Trust v Goosen and Others*,³ Bertelsman J interpreted the test for granting leave to appeal as follows: -

"It is clear that the threshold for granting leave to appeal against the judgment of a High Court has been raised in the new Act. The former test whether leave to appeal should be granted was that a reasonable prospect that another court might come to a different conclusion... The use of the word 'would' in the new statute indicates a measure of certainty that another court will differ from the court whose judgment is sought to be appealed against."

[8] In *Mothuloe Inc Attorneys v The Law Society of the Northern Provinces and Another*⁴ the Supreme Court of Appeal stated as follows regarding a court *a quo*'s liberal approach on granting leave to appeal: -

"It is important to mention my dissatisfaction with the court a quo's granting of leave to appeal to this court. The test is simply whether there are any reasonable prospects of success in an appeal. It is not whether a litigant has an arguable case or a mere possibility of success..."

This court has in the past bemoaned the regularity with which leave is granted to this court in respect of matters not deserving its attention.

² Acting National Director of Public Prosecutions and Others v Democratic Alliance In Re: Democratic Alliance v Acting National Director of Public Prosecutions and Others (19577/09) [2016] ZAGPPHC 489 (24 June 2016)

³ [2014] 2325 (LCC).

⁴ 2017 JDR 0533 (SCA); para [18].

(See Shoprite Checkers (Pty) Ltd v Bumpers Schwarmas CC & others 2003 (5) SA 354 (SCA) para 23.)

- [9] A court in considering an application for leave to appeal must be persuaded with a measure of certainty that another court will differ.

GROUND OF APPEAL

- [10] The applicants argued that the court's interpretation of the obligation imposed on the applicants by section 77 of the Local Government: Municipal Property Rates Act⁵ ("**the Rates Act**") to "*regularly, but at least once a year, update its valuation roll*" is patently wrong. The delay in reflecting the property on the supplementary roll is according to the applicant not a basis to interpret section 78 of the Rates Act. It was contended on behalf of the applicants that the court erred when it attributed to the applicants a statutory function of the municipal valuer. Thus, the applicants concluded that the court misidentified the functionary in whom the public power vests.

- [11] In addition, the applicants argued that the case before the first respondent and the review application before the court was not premised on a failure on the part of the applicant or of any functionary to perform in terms of section 79 of the Rates Act. Accordingly, so the applicants argued, the court erred when it stated that the applicants failed in their statutory duties.

- [12] The applicants also argued that the court erred in finding that the applicants

⁵ 6 of 2004.

did not exhaust internal remedies before approaching the court on a review.

DELIBERATION

[13] The Supreme Court of Appeal held in *City of Johannesburg Metropolitan Municipality v Zibi and Others*⁶ that section 77 obliges the municipality to update the valuation roll annually, either through a supplementary valuation roll under section 78, or an amendment of the valuation roll under section 79.⁷

[14] In my view, my finding as stated in paragraph [48] of my judgment that the applicants did not adhere to their statutory duty by not regularly causing the valuation roll to be amended, is supported by the aforesaid judgment and is therefore correct.

[15] Further, in my view, it remains wrong, unfair and against the spirit of the Constitution and the fairness principle enshrined in the Rates Act that the applicants can merely prepare a supplementary valuation roll for three consecutive years and thereafter apply section 78(1)(d) of the Rates Act so that new rates become payable from the date of the event that caused the increase

CONCLUSION

[16] In determining whether there is a reasonable prospect of success and whether it is in the interest of justice to grant leave, I re-considered my

⁶ 2021 (6) SA 100 (SCA).

⁷ *City of Johannesburg Metropolitan Municipality v Zibi (supra)* paragraph [31].

judgment, the grounds set out in the application for leave to appeal and the heads of argument filed by the parties in both the main application and the application for leave to appeal.

[17] The applicants in my view reargued their case as it was presented at the hearing of the main application. The reasons for dismissing the main application were articulated in detail in my judgment and nothing raised in the application for leave to appeal detracts from my findings and the ultimate conclusion that I arrived at and that is that the main application must be dismissed with costs.

[18] Accordingly, I am not persuaded that another court will come to a different conclusion, that the appeal would have a reasonable prospect of success or that it is in the interest of justice to grant leave to appeal.

ORDER

In the result, the following order is made: -

1. The application for leave to appeal is dismissed.
2. The applicants, jointly and severally, the one paying the other to be absolved, shall pay the costs of the first and second respondents.



F BEZUIDENHOUT

**ACTING JUDGE OF
THE HIGH COURT**

DATE OF HEARING: 27 March 2025

DATE OF JUDGMENT: 24 October 2025

APPEARANCES:

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