

Reportable:	YES / NO
Circulate to Judges:	YES / NO
Circulate to Regional Magistrates:	YES / NO
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**IN THE HIGH COURT OF SOUTH AFRICA
(NORTHERN CAPE DIVISION, KIMBERLEY)**

Case no: 2277/2024

In the matter between:

**INNOCENTIA MIRACLES PIENAAR
MOTLALEPULA SEGAMI**

First Applicant
Second Applicant

and

**JEROME PHENYO RAADT
DERICK CORNS
SCARLET SUN 15 (PTY) LTD
BLUE DUST 7 (PTY) LTD
THE COMMISSIONER OF COMPANIES AND
INTELLECTUAL PROPERTY COMMISSION**

First Respondent
Second Respondent
Third Respondent
Fourth Respondent

Fifth Respondent

In re:

**JEROME PHENYO RAADT
SARAH KOUS
SCARLET SUN 15 (PTY) LTD
BLUE DUST 7 (PTY) LTD**

First Applicant
Second Applicant
Third Applicant
Fourth Applicant

and

**THOMAS SWARTS
HENRY LANGEVELD
LYDIA MODISE
ZINAKILE REUBEN DUBE
INNOCENTIA MIRACLES PIENAAR
MOTLALEPULA SEGAMI
MARGARET SWARTS
GLORIA PETERSON**

First Respondent
Second Respondent
Third Respondent
Fourth Respondent
Fifth Respondent
Sixth Respondent
Seventh Respondent
Eighth Respondent

EVELINA MOKHENGWANE
ALL THE REMAINING MEMBERS OF THE SYDNEY
ON VAAL COMMUNAL PROPERTY ASSOCIATION
MOKUENA ATTORNEYS
THE DIRECTOR: TENURE REFORM
IMPLEMENTATION IN THE PSSC: NC
THE COMMISSIONER OF COMPANIES AND
INTELLECTUAL PROPERTY COMMISSION

Ninth Respondent

Tenth Respondent
 Eleventh Respondent

Twelfth Respondent

Thirteenth Respondent

Coram: MAMOSEBO J

Heard: 04 September 2025.

Delivered: 17 October 2025.

Summary: Application for leave to appeal – Reliance on s 17(1)(a)(i) of the Superior Courts Act 10 of 2013 – Whether the envisaged appeal has reasonable prospects of success.

ORDER

1. The application for leave to appeal is dismissed with costs.
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JUDGMENT

Mamosebo J

[1] The applicants seek leave to appeal against the judgment and order of this Court handed down on 25 July 2025 to the Supreme Court of Appeal, alternatively, the Full Court of this Division. The application is in terms of s 17(1)(a)(i) of the Superior Courts Act¹ in that the applicants contend that reasonable prospects for a successful appeal exist.

[2] The trite principle is that leave to appeal may only be granted where the Judge or Judges are of the opinion that either the appeal would have a reasonable prospect of success; or there is some other compelling

¹ 10 of 2013.

reason why the appeal should be heard, including conflicting judgments on the matter under consideration.²

[3] This Court clearly outlined at paragraph 2 of its judgment what stood for determination therein.³ The first ground on which leave to appeal is sought is misplaced. This is because this Court did not conduct an enquiry but stated its view that order 2.3 by Williams J which ordered the respondents to furnish the applicants with all the decisions, reports and financial statements from 28 June 2024 to 11 April 2025 within 48 hours was final in effect. This Court accepted that Scarlet Sun 15 (Pty) Ltd was dormant and had not traded for some time, and therefore did not produce financial statements or reports during the stated period.

[4] Further, Annexures “A” and “D”, which were already placed in possession of the applicants before the application was heard, did not form part of the contempt of court application, and the applicants only handed a copy of Annexure “A” in the application for leave to appeal proceedings. The fact that the annexures were not before me when I considered the matter led to my finding at paragraph 14 of the main judgment, where I found that the *Plascon-Evans* principle was applicable. I am not persuaded that the applicants have shown non-compliance with the terms of the order. Resultantly, wilfulness and *mala fides* on the part of the respondents cannot be presumed; therefore, contempt beyond reasonable doubt is not established.

[5] Section 18(1) of the Superior Courts Act is clear and unambiguous and stipulates that:

‘Subject to subsections (2) and (3), and unless the court under exceptional circumstances orders otherwise, the operation and execution of a decision

² See *inter alia* MEC for Health, Eastern Cape v Mkhitha and Another (1221/2015) [2016] ZASCA 176 (25 November 2016) para 16 and 17; Caratco (Pty) Ltd v Independent Advisory (Pty) Ltd 2020 (5) SA 35 (SCA) para 2; Ramakatsa and Others v African National Congress and Another (724/2019) [2021] ZASCA 31 (31 March 2021) para 10.

³ See Pienaar and Another v Raadt and Others (2277/2024) [2025] ZANCHC 64 (25 July 2025).

which is the subject of an application for leave to appeal or of an appeal, is suspended pending the decision of the application or appeal.’

The respondents have filed an application for leave to appeal Williams J’s order and, because the reasons were not yet furnished, indicated that they would supplement the grounds of appeal after obtaining reasons for the order.

[6] Costs are in the discretion of the court provided that the discretion is exercised judiciously.⁴ Paragraphs 16 and 17 of the main judgment dealt with the aspect of costs.

[7] Regard being had to the papers filed, and having carefully and dispassionately considered the application for leave to appeal in order to determine whether there is a reasonable prospect that another court would come to a different finding than this Court had reached, I have not found any. There are, in my view, neither cognisable prospects of success nor compelling reasons that warrant the attention of the Full Court of this Division, alternatively, the Supreme Court of Appeal, to entertain this appeal. Accordingly, the application for leave to appeal must fail.

[8] In the result, the following order is made:

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


MC MAMOSEBO
JUDGE OF THE HIGH COURT
NORTHERN CAPE DIVISION

⁴ See *inter alia* *Fripp v Gibbon and Co* 1913 AD 354; *Intercontinental Exports (Pty) Ltd v Fowles* [1999] 2 All SA 304 (A) para 25.

Appearances

Obo the Applicants:

Adv. JK Mongala

On instructions of:

Mokuena Attorneys

c/o Mosikare Attorneys

Obo the Respondents:

Adv. Barnard Knoetze SC

On instructions of:

Van De Wall Inc