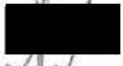




**IN THE HIGH COURT OF SOUTH AFRICA
(GAUTENG DIVISION, PRETORIA)**

Case No: 187776/2025

(1)	REPORTABLE: no
(2)	OF INTEREST TO OTHER JUDGES: no
(3)	REVISED:
 _____ SIGNATURE 9 DECEMBER 2025 _____ DATE	

In the matter between:

SILWOOD CENTRE CC

First Applicant

BRIXICLOX (PTY) LTD

Second Applicant

and

D EDWARDS CC t/a CAMPGROUND MOTORS

First Respondent

COTTAGE MOTORS CC

Second Respondent

CLAYTON HETHERINGTON N.O.

Third Respondent

SALLY HETHERINGTON N.O.

Fourth Respondent

DALE AMSTEL KOHLBERG N.O.

Fifth Respondent

In re:

D EDWARDS CC t/a CAMPGROUND MOTORS

First Applicant

COTTAGE MOTORS CC

Second Applicant

CLAYTON HETHERINGTON N.O.

Third Applicant

SALLY HETHERINGTON N.O.

Fourth Applicant

DALE AMSTEL KOHLBERG N.O.

Fifth Applicant

and

SILWOOD CENTRE CC

First Respondent

BRIXICLOX (PTY) LTD

Second Respondent

THE CONTROLLER OF PETROLEUM PRODUCTS

Third Respondent

ASTRON ENERGY (PTY) LTD

Fourth Respondent

ENGEN PETROLEUM LIMITED

Fifth Respondent

**THE MINISTER OF MINERAL RESOURCES AND
ENERGY**

Sixth Respondent

This judgment is prepared and authored by the Judge whose name is reflected as such and is handed down electronically by circulation to the parties / their legal representatives by email and by uploading it to the electronic file of this matter on CaseLines. The date for handing down is deemed to be 9 December 2025.

JUDGMENT: LEAVE TO APPEAL

INTRODUCTION

[1] Silwood Centre CC [Silwood] and Brixiclox (Pty) Ltd [collectively the applicants] apply for leave to the Full Court of this Division alternatively the Supreme Court of Appeal against the whole order and judgment of this Court on the 17 November 2025 in which this Court granted interim relief pending a review and rescission application brought by the first to fifth respondents [respondents] in the main application.

[2] Due to the nature of order, what this Court is called to determine beforehand, is whether the interim relief granted, the subject matter of this application for leave to appeal, is appealable.

APPEALABILITY OF THE ORDER

[3] To commence, this Court considers what Khampepe ADCJ (as she then was), stated in the matter of the Economic Freedom Front v Pravin Jamnadas Gordhan and Others¹ [EFF matter] in the Constitutional Court:

*"An interim interdict is a temporary order that aims to protect the rights of an applicant, pending the outcome of a main application or action. It attempts to preserve or restore the status quo until a final decision relating to the rights of the parties can be made by the review court in the main application. As a result, it is not a final determination of the rights of the parties (this will include points raised in *limine* – own emphasis). It bears stressing that the grant of an interim interdict does not, and should not, affect the review court's decision when making its final decision and should not have an effect on the determination of the rights in the main application. The purpose of an interdict is to provide an applicant with adequate and effective temporary relief."*

¹ CCT232/19 at par [47].

[4] Bearing the aforementioned in mind it was common cause on the papers that that the respondents' appeal against the first applicant, Silwood's successful application for the rezoning of the site with the City of Cape town occurred on the 30 September 2025. In consequence, as at 30 September 2025, Silwood notwithstanding being the holder of a site license in terms of the Petroleum Products Act, 120 of 1977 [the Act], was in a in a position to commence with lawful construction on the site.

[5] The respondents with the interim relief intended to temporarily stop the construction pending the rescission and review relief as set out in Part B [main application]. Construction, as per the approval sought from the City could not lawfully have commenced prior to the 30 September 2025. The respondents launched the interim relief preserving the status *quo* prior to the approval, and before lawful construction could commence in earnest, in October 2025, and without delay.

[6] The finding of the prospect of success at the interim stage by this Court is not binding on the Court will not be binding on the Court seized with the main application as clearly re-iterated again and set out by the CC in the EFF matter. Therefore, the findings of the prospect of success as relied on by the applicants by this Court at the interim stage, is not dispositive of the success of the main application. Nor for that matter did it dispose of a substantial portion of the issues to be traversed the main application. The Cities approval stands. In consequence the nature of the order is not final and therefor by its nature not appealable.

[7] Notwithstanding the aforesaid and, applying the appropriate test for the appealability of an interim interdict as set out by Moseneke DCJ in the OUTA² whether it is the interest of Justice as this stage to grant leave. This Court has considered the germane circumstances in this matter and, weighing them carefully, finds that they do not tip in favour of the appellants.

² **National Treasury v Opposition to Urban Tolling Alliance** [2012] ZACCA 18: 2012 (6) SA 223 CC); 2012 (11) BCLR 1148 (CC) (OUTA).

[8] In short, procedurally in the main application, save for the prospected of supplementary papers filed in the review application, both parties have filed papers traversing the issues raised in the main application. No evidence on the papers existed that the Silwood had suffered irreparable harm by commencing with the construction as per the Cities approval, as yet.

[9] The interim relief does not unduly trespass on the exclusive terrain of any of the branches of government that requires due consideration on appeal before hearing the main application. This is because the germane facts demonstrate that the respondents wish to disturb a Court order which was crafted to dictate the decision of the Controller, the third respondent in the main application by order and not, to disturb a decision duly taken by the Controller in terms of section 2D, dealing with transitional licencing provisions of the Act, after being ordered to apply itself and, the provisions of the Act in order to make the decision itself.

[10] Lastly, granting leave to appeal would lead to a piecemeal adjudication and prolong the litigation. All the issues are intertwined in such a way that the applicants' ability to obtain final credence to resurrect a fuelling station on the site and trade dictates that a piecemeal approach to the litigation is not in their interest nor that of the respondents. Finality is required. It is not in the Interest of Justice that leave be granted to appeal this interim order.

[11] In consequence the necessity to consider yet further grounds raised on appeal unnecessary based on this finding.

[12] Considering all the germane circumstances and reconsidering the reasoned judgment in the urgent Court, this Court is not of the opinion that the applicants have met the threshold of section 17(1)(a)(i) or (ii) of the Superior Courts Act 10 of 2013 and in consequence, leave to appeal must fail.

COSTS

[13] There is no reason why costs should not follow the result.

[14] The following order:

1. Leave to appeal is dismissed.
2. The First and Second Applicants are ordered to pay the First to Fifth costs associated with this application, Counsel's fees to be taxed on scale B.


L.A. RETIEF

Judge of the High Court
Gauteng Division

Appearances:

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Ref: MT/MAT757

Date of hearing: 4 December 2025
Date of judgment: 9 December 2025