



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

Case No: **029852/2024**

(1) REPORTABLE: No
(2) OF INTEREST TO OTHER JUDGES: No
(3) REVISED:
 SIGNATURE 23 February 2026 DATE

In the matter between:

JAN ERASMUS N.O

Applicant

SIEBERT JACOBUS BRIEDENHANN N.O

MARIA DOROTHA JOUBERT N.O

(In their joint capacities as Trustees for the time of the FRITZ
ROOS TRUST, reference IT 8122/2001)

and

PAUL JACOBUS COETZEE

First Respondent

MARIUS JOHANNES MARITZ N.O

Second Respondent

(In his capacity as duly appointed and lawful agent acting on behalf of JOHAN WILLEM HORN N.O in his capacity as the duly appointed executor of Estate Late THOMAS DANIEL RAVENSCROFT)

In re:

PAUL JACOBUS COETZEE

First Applicant

MARIUS JOHANNES MARITZ N.O

Second Applicant

(In his capacity as duly appointed and lawful agent acting on behalf of JOHAN WILLEM HORN N.O in his capacity as the duly appointed executor of Estate Late THOMAS DANIEL RAVENSCROFT)

and

DWARS BELEGGINGS (PTY) LTD

First Respondent

JAN ERASMUS N.O

Second Respondent

SIEBERT JACOBUS BRIEDENHANN N.O

MARIA DOROTHA JOUBERT N.O

(In their joint capacities as Trustees for the time of the FRITZ ROOS TRUST, reference IT 8122/2001)

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 23 February 2026.

JUDGMENT
(LEAVE TO APPEAL)

RETIEF J

INTRODUCTION

[1] The applicant, the Trustees of the Fritz Roos Trust [the Trust], seeks leave to appeal to the Supreme Court of Appeal, alternatively to the Full Court of this Division against the whole judgment and order of this Court handed down of the 12 November 2025 in which both its opposition of the main application and its counter-application was dismissed. Both the main application and the counter application concerned the implementation of section 163(1) and (2) of the Companies Act, 71 of 2008 [the Companies Act] [163 relief].

[2] Having regard to the leave of appeal argued, context is everything and context is the lens through which the facts of this matter must be viewed. This the Court dealt with in the introduction of its reasoned judgment. Furthermore, regard must be had to the practical consideration of an appeal before another Court in circumstances when both parties sought relief in terms of section 163 of the Companies Act and no grounds of appeal are raised regarding the exercise of the Court's discretion when crafting the section 163 relief. In fact, both Counsel in argument submitted that the relief was appropriate and well crafted. Counsel for the Trust in argument further suggested that the Trust may even adopt the same 163 relief, albeit with minor amendments.

[3] Flowing from this and, placing significance on the fact that this Court, when determining and crafting the section 163 relief, considered all the facts before it and, of course put due weight on the findings it made in respect of the respondents' reliance on section 163(1) in order to strike an equitable balance. This balance it found notwithstanding the fact that the Trust's counter claim failed. It is however the Court's findings regarding section 163(1) which appears to make up the thrust of the Trust's grounds in support of leave.

[4] Speaking to these grounds, this Court has reconsidered the reasoned judgment, considered the submissions, considered that the Trust failed to attack the principle adopted by the Court in the De Klerk v Ferreira and Others¹ regarding the interpretation of a company's policy, this Court is of the opinion that the appeal would not have a reasonable prospect of success and that there is no other compelling reason why the appeal should be heard.

[5] In the circumstances, the Trust has failed to meet the threshold of section 17(1)(a)(i) and (ii) of the Superior Courts Act, 10 of 2013 and the application should fail.

[6] The following order:

1. The application for leave to appeal is dismissed.
2. The Applicant is to pay the First and Second Respondents' costs and Counsel's fees, taxed on scale C.


 L.A. RETIEF
 Judge of the High Court
 Gauteng Division

Appearances:

For the Applicant:

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For the First Respondent

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¹ 2017 (3) SA 502 (GP).

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Date of hearing: 05 February 2026

Date of judgment: 23 February 2026