



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

CASE NO: 2021-59209

DELETE WHICHEVER IS NOT APPLICABLE

- (1) REPORTABLE: **NO**
- (2) OF INTEREST TO OTHER JUDGES: **NO**
- (3) REVISED.
- (4) Date: 07 April 2026

Signature: _

In the matter between:

KAMAL KANT SINGHALA N.O.

Applicant

And

THE DIRECTOR GENERAL OF HOME AFFAIRS

Respondent

JUDGMENT IN APPLICATION FOR LEAVE TO APPEAL

NYATHI J

Introduction

1. On 7 February 2025, this Court delivered judgment dismissing the applicant's contempt of court application, in which he sought to compel the respondent to issue his minor daughter, born in Dubai on 16 December 2019, with a South African passport and unabridged birth certificate.
2. The applicant filed his application for leave to appeal on 27 February 2025. The grounds of appeal are extensive and traverse the Court's findings on (a) contempt; (b) the consequences of the applicant's deprivation of citizenship; (c) *locus standi* in relation to the minor child; and (d) the Court's reliance on the pending rescission application.
3. The respondent opposes the application for leave to appeal. The opposing submissions are premised principally on the contention that the matter has become *moot*, owing to the Minister of Home Affairs' decision of **21 November 2024** to deprive the applicant of his South African citizenship in terms of section 8 of the Citizenship Act 88 of 1995. It is common cause that this deprivation has neither been reviewed nor appealed.
4. The essence of the respondent's opposition is that the Court correctly found the contempt application to lack merit and that, given the subsequent deprivation of the applicant's citizenship, the appeal would have no practical effect.

The Test for Leave to Appeal

5. Section 17(1) of the Superior Courts Act 10 of 2013 provides that leave to appeal may only be granted where the Court is of the opinion that:

“(a) the appeal would have a reasonable prospect of success; or

(b) there is some other compelling reason why the appeal should be heard.”

6. The threshold is intentionally stringent¹. The Supreme Court of Appeal has repeatedly emphasised that leave to appeal should not be granted where the prospects are remote, or where the appeal would serve no practical purpose.

Key Issues Raised

A. Mootness

7. The respondent argues vigorously that the appeal is moot. It is common cause that the Minister lawfully deprived the applicant of citizenship with effect from 21 November 2024. Until set aside, the decision remains valid and binding, following the principle in *Oudekraal Estates (Pty) Ltd v City of Cape Town* 2004 (6) SA 222 (SCA) that an administrative act stands until set aside by a court.
8. The respondent argues that because the applicant is no longer a citizen, the appeal would have no practical effect. Courts do not entertain academic or hypothetical disputes: *JT Publishing (Pty) Ltd v Minister of Safety and Security* 1997 (3) SA 514 (CC) at para 15; *Radio Pretoria v Chairperson, Independent Communications Authority of SA* 2005 (1) SA 47 (SCA).
9. The applicant submits, however, that while his own citizenship may have been removed, the consequences for the minor child remain unresolved. It is argued that the minor child became a South African citizen *by operation of law* at birth, as her father was a South African citizen at that time.
10. The applicant also argues that he retains *locus standi* as the biological father and legal guardian of the minor child, irrespective of his own citizenship status.
11. The Court notes that the minor child has **not** been deprived of citizenship under section 10 of the Citizenship Act, and the Minister has not invoked that provision.

¹ *Notshokovu v S* 2016 (1) SACR 581 (SCA) at para 2; and *General Council of the Bar v Jiba and Others* 2019 (1) SA 130 (SCA) at para 19.

12. Nevertheless, the contempt application before this Court concerned whether the respondent acted in **wilful** disregard of the order issued by Retief AJ. The subsequent deprivation of the applicant's citizenship fundamentally altered the legal landscape and rendered the coercive element of contempt inappropriate. That finding remains unaffected by the issues raised regarding the minor child's independent rights.
13. The appeal, even if successful, would not alter the fact that the applicant is no longer a citizen, nor that the original order sought to compel the issuance of documents dependent on the applicant's citizenship status. On that basis alone, the appeal would produce **no practical effect**, and section 16(2)(a)(i) of the Superior Courts Act is engaged.

B. The Contempt Finding

13. The applicant argues that the Court erred in accepting the respondent's explanation that the matter had "fallen through the cracks", and that the respondent failed to rebut the presumption of wilfulness and mala fides.
14. Upon reconsideration, the Court remains satisfied that the presumption was rebutted based on the totality of the evidence, particularly in light of the pending rescission application and information placed before Court regarding the applicant's citizenship status at the time judgment was delivered.
15. The applicant has not demonstrated any reasonable prospects of success on this issue.

C. The Minor Child's Rights

16. Although the applicant's arguments regarding the minor child's derivative citizenship raise complex issues of law that may well warrant judicial examination

in an appropriately framed proceeding, those questions were not the subject of the contempt application.

17. The present enquiry is confined to whether the Court erred in dismissing the contempt application. The broader constitutional and statutory issues relating to the child's identity documents are neither dispositive of the contempt inquiry nor determinative of prospects of success on appeal.

18. These issues may be pursued in properly constituted proceedings, but they do not ground reasonable prospects of success in an appeal against the contempt judgment.

Conclusion

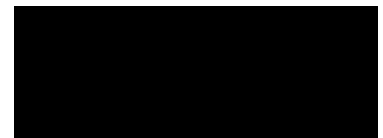
19. Having considered all grounds raised and the submissions of both parties, the Court finds:

- The appeal would **not** have a reasonable prospect of success;
- The issues raised are, in the main, **moot**;
- No compelling reason exists to hear the appeal; and
- The stringent test under section 17(1) has not been satisfied.

Order

20. The application for leave to appeal is **dismissed**.

21. The Applicant is to pay the costs of this application on a party and party scale B.



J.S. NYATHI
Judge of the High Court

Date of hearing: 03 October 2025

Date of Judgment: 07 April 2026

On behalf of the Applicant: Adv. M.R. Hellens SC

Applicant's attorneys: Krause Attorneys Inc, Jhb. C/O Jacobson & Levy Inc. Pretoria

On behalf of the Respondent: Adv. N. Cassim SC

With him: Adv. S. Mpakane

Respondent's attorneys: The State Attorney, Pretoria

Delivery: This judgment was handed down electronically by circulation to the parties' legal representatives by email and uploaded on the CaseLines electronic platform. The date for hand-down is deemed to be 07 April 2026.