



**IN THE HIGH COURT OF SOUTH AFRICA
NORTH WEST DIVISION, MAHIKENG**

Not Reportable

Case No: M655/2022

In the matter between:

TEBOGO DESIREE KUKAMA

FIRST APPLICANT

BETHUELL GAOTINGWE RAMOKOKA

SECOND APPLICANT

EUGENE LETLAPE

THIRD APPLICANT

REGINALD NATHANIEL LETLAPE

FOURTH APPLICANT

GOMOT SEGAANG MOSES MOKOKA

FIFTH APPLICANT

LEBOGAANG KHUMO LETLAPE

SIXTH APPLICANT

and

THE BAPHALANE BA RAMOKOKA

COMMUNAL PROPERTY ASSOCIATION **FIRST RESPONDENT**

THE MINISTER OF RURAL

DEVELOPMENT AND LAND REFORM

SECOND RESPONDENT

THE DIRECTOR-GENERAL OF THE

DEPARTMENT OF RURAL DEVELOPMENT

AND LAND REFORM

THIRD RESPONDENT

Heard on: 30 April 2026

Reserved on: 30 April 2026

Coram : Reddy J

This judgment was electronically circulated to the parties' legal representatives by e-mail and released on SAFLII. The date and time of hand down are deemed to be 18 May 2026 at 14h00.

JUDGMENT ON APPLICATION FOR LEAVE TO APPEAL

REDDY J

Introduction

[1] The first respondent, the Baphalane Ba Ramokoka Communal Property Association (the CPA), seeks leave to appeal this Court's judgment and order dated 5 January 2026. The applicants oppose the application. The second and third respondents do not oppose this Court's decision.

The applicable test

[2] Section 17(1) of the Superior Courts Act 10 of 2013 governs this application. It provides that leave to appeal may only be given where the judge is of the opinion that the appeal would have a reasonable prospect of success, or that there is some other compelling reason why the appeal should be heard. The word “would” is significant.

[3] In *MEC for Health Eastern Cape v Mkhitha*¹, leave to appeal must not be granted unless there truly is a reasonable prospect of success. An applicant must convince the court on proper grounds that there is a realistic chance of success. A mere possibility of success, an arguable case or one that is not hopeless, is insufficient. There must be a sound, rational basis for concluding that a reasonable prospect of success exists.

[4] In *Mont Chevaux Trust v Goosen*² the formulation of the test for leave to appeal is instructive. The word 'would' indicates a measure of certainty that another court would differ, not merely that it might. That is the lens through which this application must be assessed.

Application of the test

[5] The CPA advances multiple grounds of appeal. It is not the function of this Court, in deciding a leave application, to conduct a detailed interrogation of each ground as though sitting as a court of appeal. The inquiry is narrower and more direct. It is whether, viewed as a whole and with appropriate reference to the most substantial of the grounds advanced, another court would reasonably come to a different conclusion.

[6] Several of the grounds raise significant questions of law and fact that are genuinely amenable to appellate scrutiny. I have considered the applicant's submission that the grounds amount to no more than disagreement with the outcome of the matter and that the judgment is, on the facts and the law, unimpeachable. I accept that leave to appeal is not to be granted simply because a litigant is aggrieved or because alternative reasoning was available.

¹ *MEC for Health Eastern Cape v Mkhitha* (1221/2015) [2015] ZASCA 176 [as at para 16 and 17].

² *Mont Chevaux Trust v Goosen* 2014 JDR 2325 (LCC) [as at page 6], 2014 JDR 2325 (LCC) - "would indicates a measure of certainty".

[7] The test demands more. To this end, the grounds of appeal identify specific legal questions of substance. The Promotion of Administrative Justice Act (PAJA) 3 of 2000, the treatment of factual disputes in motion proceedings, and the enforceability of the order, on which there is a sound, rational basis for concluding that another court would reason and decide differently.

Conclusion

[8] Taken together, the grounds advanced satisfy me that the appeal would have a reasonable prospect of success within the meaning of section 17(1)(a)(i) of the Superior Courts Act. The conflicting judgments on the PAJA question further provide an independent basis for the appeal to be heard in terms of section 17(1)(a)(ii). Leave to appeal must accordingly be granted.

Order

[9] In the premises, the following order is made:

1. Leave to appeal the judgment and order of this Court dated 5 January 2026 is granted.
2. The First Respondent is granted leave to appeal to a Full Court of this Division.
3. The costs of this application shall be costs in the appeal.



REDDY J

**JUDGE OF THE HIGH COURT OF SOUTH AFRICA,
NORTH WEST DIVISION, MAHIKENG**

Appearances

Counsel for the Applicant: Adv C Louis

Attorney for Applicant: Strydom & Bredenkamp Attorneys,
C/O Minchin & Kelly Inc
Mahikeng

Counsel for the Respondent: Adv A J Schoeman

Attorney for the Respondent: Padayache Attorneys
C/O Labuschagne Attorneys
Mahikeng