

IN THE HIGH COURT OF SOUTH AFRICA
GAUTENG DIVISION, PRETORIACASE NO: 80689/2026DATE: 01.06.2026

DELETE WHICHEVER IS NOT APPLICABLE (1) REPORTABLE: YES / NO (2) OF INTEREST TO OTHER JUDGES: YES / NO (3) REVISED ✓

In the matter between

ALLAN DE OLIVEIRA
PACU MARKETING

First Applicant

Second Applicant

And

EKM EXPORTS (PTY) LTD
EKM EXPORTS AFRICA (PTY) LTD

First Respondent

Second Respondent

J U D G M E N T
[LEAVE TO APPEAL]
-----**VAN DER WESTHUIZEN J:**

In matter 2026/080689, the respondents in the application, now the applicants in the application for leave to appeal, appeals against the whole of my judgment and order delivered on 6 May 2026. In that order an interim interdict was granted against the respondents.

The heart of the application for leave to appeal is that the facts upon which the judgment seems to be premised were lacking in the application, and accordingly, no relief

ought to have been granted. A "piggy heart" in that regard is that, *vis-a-vis* the second applicant, it was a non-trading company, and hence it had no rights that required any protection.

The gist of the main submission was that the first respondent had all the knowledge and contacts prior to him joining the applicant, and he was entitled to whenever he leaves to pick up those relationships and to continue.

What is telling in the submission is that nothing is
10 said or dealt with about the first respondents' systematic approach that was undertaken in his conduct prior to him leaving. The reason for him leaving the applicant was merely being a disgruntled employee, being promised the universe and not getting anything. When a new opportunity came about, he grabbed that with both hands.

That is the one scenario that the respondent, and particularly the first respondent seeks to point out in his opposition to the application. But he does not deal with his systematic collecting/downloading of information. The only
20 query raised there is whether that is confidential information, has some economic value, etc., which is laid at the door of the applicants to have shown and proven.

I have carefully considered the application for leave to appeal. I have carefully considered the respondents' heads of argument in support of its application for leave to

appeal. I have carefully considered the able argument of Mr Vorster on behalf of the respondents.

And having again considered my judgment, considering the criticism levelled against it, in particular those issues that apparently are lacking in substance and factual findings, I am not persuaded that another Court would in all probabilities come to a different conclusion than I have come to.

The applicant for leave to appeal, the respondent,
10 seeks leave to the full bench or the full Court of this division. Although there is one aspect which is submitted to be of some interest to the Supreme Court of Appeal, but nevertheless, the respondents are confident that the full Court of this division will indeed come to a different conclusion.

I have carefully considered the ambit of my order, whether it is a final order clothed in language of an interim interdict. On considering my judgment again, I am not persuaded that I had erred in that regard.

20 The mere fact that looking in the future, whether if there is a transgression, it would warrant an application for contempt. That is not a basis to approach the character of an order, whether it is interim or final.

One of the directions granted in the order was the institution of an action within the time limit, failing which,

the order would lapse. That can never be a final order, it can only be an interim order.

If a broad approach is to be followed when considering the character of an interim *vis-à-vis* a final, irrespective of the language used, the majority of so-called interim interdicts would be final in effect. It would have some prohibition that may have a consequential disastrous effect upon the party so interdicted.

As recorded earlier, I am not persuaded that a full
10 Court of this division would indeed come to a different conclusion than I had come. Accordingly, the application for leave to appear is dismissed with costs, such costs to be taxed on scale C.

.....

.....
VAN DER WESTHUIZEN J
JUDGE OF THE HIGH COURT

20 DATE: 12 June 2026

