


REPUBLIC OF SOUTH AFRICA



IN THE HIGH COURT OF SOUTH AFRICA
GAUTENG DIVISION, JOHANNESBURG

Case Number: 2025-010207

1. Reportable: No
2. Of interest to other judges: No
3. Revised

[REDACTED]
WRIGHT J
24 June 2026

In the matter between:

ABSA BANK LIMITED

APPLICANT

and

BAHWITI INVESTMENTS CC

FIRST RESPONDENT

DAVID MOGASHOA

SECOND RESPONDENT

JUDGMENT - APPLICATION FOR LEAVE TO APPEAL

WRIGHT J

1. Bahwiti and Mr Mogashoa seek leave to appeal my typed, signed judgment and order of 8 June 2026. The parties above are as cited according to the

notice of motion in the application for leave to appeal, which is as per the original notice of motion in the main application.

2. Absa sold a number of vehicles to Bahwiti. Bahwiti defaulted and Absa launched an application for the return of certain vehicles. The short, bald answering affidavit alleged that payments were up to date. The replying affidavit showed that the indebtedness in respect of some vehicles had been cleared but, relating to other vehicles, it had not.
3. At the start of the main hearing, counsel for Absa handed up a draft order at my request. This was so that I could see precisely which vehicles Absa wanted back. Absa, at the hearing, wanted back only some of the vehicles for which it had originally sued in the notice of motion.
4. Mr Thobejane, for Bahwiti, aware of precisely which vehicles Absa wanted back when he commenced argument in the main application, was given a full opportunity to argue his case. During argument, Mr Thobejane correctly conceded that there were arrears owing in respect of the vehicles sought back by Absa.
5. The grounds for leave to appeal, like the defence to the main application, are difficult to follow. The gist of the defence to the claims, and of this application for leave to appeal, is that because payments in respect of some vehicles were up to date, Absa could not claim the return of the vehicles in respect of which there were admitted arrears. This argument holds no water.
6. Shortly after argument in the main application, I handed down judgment and the typed, signed judgment was emailed by my clerk to the attorneys for both sides.
7. The cited respondents now seek leave to appeal.

8. The application for leave to appeal is weak. It has no reasonable prospect on appeal and there is no compelling reason why leave should be granted.
9. Ground 6 for leave to appeal reads “ *The honourable court erred by simply from the word go requesting the applicant’s legal representative for a draft order. The respondent’s legal representative could not help but make an assumption whether correctly or incorrectly that the respondents’ rights to be heard could not be observed.* “
10. These words are unfortunate. The assumption referred to is incorrect. The draft order sought was handed up so that I, and Mr Thobejane for that matter, could see precisely what was being sought by Absa at the hearing. According to the Practice Directives, a copy of the order sought must in any event be placed on the caselines court file some days before the hearing.
11. The agreements underlying the litigation provide for attorney and client costs.

ORDER

1. The application for leave to appeal is dismissed with costs, on the attorney and client scale, including those of counsel.
2. Bahwiti and Mr Mogashoa are jointly and severally liable for the costs.

WRIGHT J

Heard	24 June 2026
Delivered	24 June 2026

Appearances:

ABSA

Adv JW Kloek

Instructed by:

Marianne Pretorius

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Bhawiti and Mr Mogashoa

Mr LE Thobejane

Instructed by:

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