



(1) Reportable: No  
(2) Of interest to other Judges: No  
(3) Revised

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Signature

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Date

**THE LABOUR COURT OF SOUTH AFRICA, JOHANNESBURG**

Case No: 2026-008002

In the matter between:

**TFZ PROJECTS (PTY) LTD**

**Applicant**

and

**FREDERIK G.J. KALSEN**

**First Respondent**

**ESI SOLUTIONS (PTY) LTD**

**Second Respondent**

Heard: In Chambers

Delivered: 25 June 2026

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**JUDGMENT: APPLICATION FOR LEAVE TO APPEAL**

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**MAKHURA, J**

[1] The applicant previously approached this Court on an urgent basis seeking to enforce a restraint of trade agreement against the first respondent. On 18 March 2026, this Court dismissed that application.

[2] The applicant now seeks leave to appeal against the judgment and order handed down on 18 March 2026. Although the applicant's written submissions were filed

out of time on 23 June 2026, I am prepared, considering that the submissions were served timeously, to overlook this non-compliance in the interests of justice and determine the application on its merits.

- [3] The applicant advances four grounds in support of its application for leave to appeal. First, it submits that the Court erred both in fact and in law by regarding the applicant's characterisation as a labour broker as decisive of the question whether it competed with the second respondent and, in turn, whether the restraint agreement was enforceable. Secondly, the applicant contends that the Court incorrectly concluded that it could not establish a protectable proprietary interest because it was not itself engaged in the electrical services sector. Thirdly, it argues that the Court erred in finding that no protectable proprietary interest had been established in the form of customer relationships or trade connections. Finally, the applicant challenges the punitive costs order granted against it.
- [4] The application is opposed by the first respondent. The first respondent had timeously filed his written submissions.
- [5] I have considered the submissions advanced by the applicant, the opposing submissions filed by the first respondent, and reflected on the reasons and order of the main judgment. Having done so, and applying the established test for leave to appeal, I am not persuaded that there is a reasonable prospect that another court would come to a different conclusion, nor am I satisfied that any other compelling reason exists for the Labour Appeal Court to hear the matter. The application therefore fails to meet the requisite threshold for leave to appeal and must be dismissed.
- [6] The first respondent seeks a costs order on the scale as between attorney and own client. The considerations that informed the punitive costs order in the main judgment remain applicable. These include the legal and factual flaws in the applicant's case, the unsubstantiated allegations and both parties' original stance

that a punitive costs order is warranted. In my view, the same censure is warranted in respect of the present application.

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

Order

1. The application for leave to appeal is dismissed with costs on the scale as between attorney and own client.

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M. Makhura  
Judge of the Labour Court of South Africa