



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

CASE NO: 045858/2024

(1) REPORTABLE: NO
(2) OF INTEREST TO OTHER JUDGES: NO
(3) REVISED: YES
Date: 4 June 2026

In the matter between:

TSHEPO MATJEE

1st APPLICANT

**BATSILE BOTLHE PROJECCT DEVELOPMENT
(PTY) LTD**

2nd APPLICANT

BAKGATLA AND SONS HOLDINGS (PTY) LTD

3rd APPLICANT

and

MALEBANA OBAKENG KEABETSWE MOLLY

1st RESPONDENT

FIRST NATIONAL BANK

2nd RESPONDENT

MALEBANA LETHLOGONOLO MOLOKOTO

3rd RESPONDENT

PETER

MATJEE TSHEPO JOHANNES

4th RESPONDENT

MASONGANYE SELIAAN SARAH

5th RESPONDENT

**BOKANG MORENA TRADING AND PROJECTS
(PTY) LTD**

6th RESPONDENT

LEAVE TO APPEAL JUDGMENT

ALLY AJ

[1] This is an application for leave to appeal the whole my judgment and order of 21 January 2026.

[2] The applicants on this occasion were represented by Adv. M.B. Lekoloana and the first respondent still by Mr S. Twala.

[3] Whilst the applicants had filed the application for leave to appeal on 22 January 2026, a supplementary notice for leave to appeal was filed two days before the hearing of the application for leave to appeal. There was no objection to the supplementary notice of leave to appeal and this Court heard the application for leave to appeal based on the supplementary notice and the grounds set out therein.

[4] At the outset a ruling was made that the first respondent's *points in limine* will be dealt with after hearing all submissions from the parties.

[5] Counsel for the applicant in dealing with his submissions wanted to address the Court on first respondent's point that the application for leave to appeal had lapsed and I ruled that this issue need not be dealt with at that stage but later after the first respondent's legal representative had expanded and explained the point. It can be stated that the point of the application for leave to appeal lapsing was abandoned by the first respondent and rightly so.

[6] It has now become trite that the test in applications for leave to appeal has changed to one which is heightened¹. The Respondent is accordingly required to convince this Court that another Court 'would' come to another conclusion.

[7] I do not deem it necessary to repeat the grounds of appeal in this judgement save to state that I have considered all the grounds as well as the submissions of both parties in this application.

[8] I remain unconvinced that another court would come to a different conclusion and accordingly I am of the view that there are no reasonable prospects of success and there are no compelling reasons to grant this application for leave to appeal.

[9] With regard to the judgment by Mazibuko J which the applicants rely on as a factor which this Court must have regard to in adjudicating this application, suffice it to state that Mazibuko J was dealing with an application in terms of Section 18 and in my view did not overturn my judgment which in law could not be overturned except through rescission proceedings or an appeal.

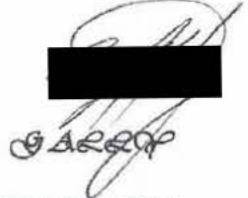
[10] Accordingly, the application must fail and costs must follow the result. The first respondent requested on what was submitted, a higher scale for the reason that the applicants filed the supplementary application for leave to appeal on the eve of the hearing. As stated above, the first respondent did not object to the filing

¹ The Mont Chevaux Trust v Tina Goosen 3 November 2014 (unreported judgement LCC Case No: LCC14R/2014; The Acting National Director of Public Prosecution v Democratic Alliance (unreported case no: 19577/09 dated 24 June 2016); First Reality (Pty) Ltd v Mitchell & Others 2021 ZALCC 21 dated 23 August 2021 @ para 2

of the supplementary application for leave to appeal and it is my view that there is no need to penalise the applicants.

[11] Accordingly, the following Order will issue:

- a). the application for leave to appeal is dismissed;
- b). the costs of this application are to be paid by the applicants, the one paying the others to be absolved and the scale in terms of Rule 67A is set at Scale B.



**ACTING JUDGE OF THE HIGH COURT
GAUTENG DIVISION OF THE HIGH COURT, PRETORIA**

Electronically submitted therefore unsigned

Delivered: This judgement was prepared and authored by the Judge whose name is reflected and is handed down electronically by circulation to the Parties/their legal representatives by email and by uploading it to the electronic file of this matter on CaseLines. The date for hand-down is deemed to be 4 June 2026

Date of virtual hearing: 20 May 2026

Date of judgment: 4 June 2026

Appearances:

Attorneys for the Applicants:

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Counsel for the Applicants:

Adv. M.B. Lekoloana

Attorneys for the 1st Respondent:

S. TWALA ATTORNEYS INC

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Counsel for the 1st Respondent:

Mr S. Twala [with right of appearance]