

REPUBLIC OF SOUTH AFRICA



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

CASE Number: 2023-130769

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

In the matters between:-

JONATHAN HENDRICKS

First Applicant

TRACY HENDRICKS

Second Applicant

ROZELDA MEYER

Third Applicant

and

JOHN FREDERICK SCHICKERLING N.O.

First Respondent

NADASEN MOODLEY N.O.

Second Respondent

JOHANNES ZACHARIA MULLER N.O.

Third Respondent

PHP ARMED RESPONSE (PTY) LTD

Fourth Respondent

THE MASTER OF THE HIGH COURT – PRETORIA

Fifth Respondent

JUDGMENT

H F JACOBS, AJ

[1] The unsuccessful applicants apply for leave to appeal the judgment of 28 August 2025. The fourth and fifth respondents counter apply for relief in terms of subsection 18(3) of the Superior Courts Act 10 of 2013 to the effect that the operation and execution of the order granted in their favour should not be suspended in terms of section 18(1) pending any further application for leave to appeal. I refer to the parties as in the main application. The applicants contend that the section 18(3) application may only be considered if leave to appeal is granted. Erasmus *et al*¹ write as follows on the topic: *"An application for leave to execute a decision under s 18(1) of the Act can be made even if an application for leave to appeal has not yet been lodged. A mere indication of intent to apply for leave to appeal, or a reasonably anticipated application for leave to appeal, constitutes sufficient ground to bring an application under s 18(1). In other words, the power of a High Court to order that a decision be put into operation is not contingent on the decision having been suspended by virtue of the lodging of an application for leave to appeal. Simply put, courts 'must be the guardians of their own process and be quick to avoid a toing and froing of litigants'.* The applicants' contention is, therefore, at variance with judgments of our courts on the point and cannot be upheld. The fourth and fifth respondents anticipate further attempts by the applicants to obtain leave to appeal. I will deal with the application for leave to appeal first.

¹ Superior Court Practice RS 7, 2025 at D-124B, and in fine the authorities cited in footnotes 32 and 33 by the authors

[2] In the main judgment, the purpose of an inquiry under Chapter XIV of Act 61 of 1973 is outlined. Leave to appeal is not sought on the grounds that the law referenced involves a material misdirection. Counsel for the applicants argues that complying with the subpoenas would breach the Protection of Personal Information Act 4 of 2013. This argument does not acknowledge that such inquiries are private and confidential unless a court or the Master decides otherwise. No such ruling is cited. The argument is without merit and must be dismissed.

[3] The applicants argue that the subpoenas issued by Mr Schickerling are too broad and that his actions amount to nothing more than a fishing expedition, which requires judicial review of the subpoenas. I do not agree. The authorities cited in my judgment demonstrate that a commissioner like Mr Schickerling may (and is obliged to) seek evidence and information to, in this instance, assess the validity of the allegations concerning R16 000 000 of Mamba PHP's funds. Any challenge raised by the applicants in the review should be and must be presented under oath during evidence before the commissioner. The law is well established on this point, and the applicants' behaviour undermines the statutory framework established by Chapter XIV of Act 61 of 1973.

[4] I do not believe that the appeal has a reasonable chance of success or that there is any other strong reason for it to be heard. On the contrary, the application and the application for leave to appeal are abuses of process, and the grounds put forward for relief are contrived. I now turn back to the section 18(3) application.

[5] To succeed with an application for an execution order under sub-section 18(3), the fourth and fifth respondents must prove the existence of exceptional circumstances, demonstrate that they will suffer irreparable harm if the order is not granted, and show that the party against whom the order is sought (the applicants *in*

casu) will not suffer irreparable harm if the order is granted. Consideration of each of the three requirements does not occur in isolation, and to treat each as separate would result in an invalid exercise of judicial discretion.²

[6] In my view, the mere existence of the application for review brought by the applicants makes the circumstances exceptional. It is contrived and undermines the legislation mentioned in my judgment of 28 August 2025. In my opinion, the first of the three requirements has been demonstrated to exist. What the commissioner seeks here is information and evidence to fulfil his statutory duties. Compliance with the subpoenas and the giving of evidence under oath by the applicants cannot harm them in a way that causes irreparable damage or prejudice if leave to execute the judgment is granted. They may have legal representation before the commissioner, and all their objections can be raised and considered by the commissioner. The requirement or factor mentioned exists, in my opinion, against refusing the execution order.

[7] The commissioner is expected to perform his statutory duties promptly and effectively. In the present circumstance, these duties have been delayed by these proceedings since 21 August 2023 (just under three years). Considering the facts of the matter and my opinion that the review application is contrived and intended to cause delays in the enquiry into the affairs of the liquidated company, there is a real risk of irreparable harm and prejudice to the commissioner and the body of creditors (and the fourth and fifth respondents) if permission to execute the judgment is denied. They have been exposed to the risk of the liquidated company's funds being lost, and this third factor in the application works against the applicants.

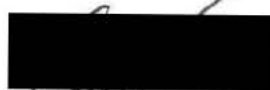
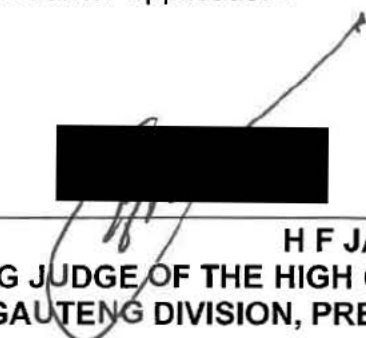
² See *Tyte Security Services CC v Western Cape Provincial Government* 2024 (6) SA 174 (SCA) at [10] – [21]

[8] Taking into account all the facts and circumstances of the case, as Tyte³ states, I exercise my discretion in favour of the granting of the relief sought in terms of section 18 of Act 10 of 2013.

[9] As stated earlier, the review application and the application for leave to appeal are without merit and amount to an abuse of process. The respondents should be awarded costs for both applications.

I make the following order:

1. Leave to appeal is refused.
2. The respondents' counter-application is upheld, and it is ordered that paragraphs 2 and 3 of the order dated 28 August 2025 are to be maintained and not suspended in terms of section 18(3) of Act 10 of 2013, pending any application for leave to appeal.
3. The applicants shall pay the costs of the fourth and fifth respondents in respect of the application for leave to appeal and the counter-application.



H F JACOBS
ACTING JUDGE OF THE HIGH COURT
GAUTENG DIVISION, PRETORIA

Delivered: This judgment was handed down electronically by circulation to the parties' legal representatives by e-mail. The date and time for hand-down is on the 8th of June 2026 at 13h00.

³ Supra

DATE OF HEARING: 25 MAY 2026

DATE OF JUDGMENT: 8 JUNE 2026

APPEARANCES

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