

IN THE HIGH COURT OF SOUTH AFRICAGAUTENG DIVISION, JOHANNESBURGCASE NO: 011663/2022DATE: 26.08.2026

DELETE WHICHEVER IS NOT APPLICABLE

(1) REPORTABLE: NO

(2) OF INTEREST TO OTHER JUDGES : NO

(3) REVISED



SIGNATURE

DATE: 26 August 2026

In the matter between

10 PAUL'S HOMEMADE (PTY) LTD

Applicant

and

CREAM WE GO (PTY) LTD AND OTHERS

Respondents

J U D G M E N T E X T E M P O R E

WILSON J: On 18 July 2022, Azhar Bham, sitting as an arbitrator, made an award dismissing certain challenges to his jurisdiction raised by the respondents in this matter. Speaking very broadly, those challenges were based on what the respondents said were the arbitrator's lack of jurisdiction to adjudicate certain matters of importance to the respondents under the Consumer Protection Act 68 of 2008.

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On 30 September 2022, the respondents brought an application in this court to stay any further arbitration

proceedings pending the finalisation of further relief in which the respondents sought the arbitration agreement under which Azhar Bham acted to be declared void. The basis for that application and the final relief sought was essentially the same as the objection raised to Mr Bham's jurisdiction.

My brother, Kuny J, granted an interim order staying the arbitration before Mr Bham, pending the determination and finalisation of the relief declaring the arbitration
10 agreement to be void. Part B was then heard before my brother Kumalo J and was dismissed. An appeal to the full court was also dismissed, albeit for different reasons.

The respondents now petition the Supreme Court of Appeal against the decision of the full court. That petition is yet to be determined. Notwithstanding that petition, the applicant approaches me to have Mr Bham's award on jurisdiction made an order of court. I would, even in the absence of Kuny J's order, consider it inappropriate to grant that relief in circumstances where a question material to it
20 was under consideration by the Supreme Court of Appeal. Kuny J's order fortifies me in that position.

Kuny J's order stays the arbitration pending the determination and finalisation of the relief sought by the applicants in their application before this court to have the arbitration agreement declared void. That seems to me to

extend to any appeal the respondents might pursue before the Supreme Court of Appeal. Although Justice Kuny's order might not, on its face, be read to exclude my power to make Mr Bham's award on jurisdiction an order of Court, it seems to me to be consistent with the purpose of his order to decline, at this stage, to entertain such an application.

Simply put, the respondents are entitled to have their concerns and arguments based on the Consumer Protection Act finally determined before the arbitration goes any
10 further and before this court takes any action to make any award an order of court.

For all those reasons, I make the following order.

1. The application is postponed *sine die*.
2. The question of costs is reserved.



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WILSON, J
JUDGE OF THE HIGH COURT
26 August 2026

