



**IN THE HIGH COURT OF SOUTH AFRICA
(WESTERN CAPE DIVISION, CAPE TOWN)**

JUDGMENT

Not Reportable

Case No: **2026-103333**

In the matter between:

AGRISA COMMODITIES (PTY) LTD

Applicant

and

ADV AZHAR BHAM SC N.O.

First Respondent

ARBITRATION FOUNDATION OF

SOUTHERN AFRICA

Second Respondent

MAHEK PREPACKERS CC

Third

Defendant

Neutral citation: *Agrisa Commodities (Pty) Ltd v Adv Azhar Bham N.O. & Others* Case No 2026-103333 [2026] ZAWCHC (04-09-2026)

Coram : **MAPOMA, AJ**

Heard : 12 August 2026

Judgment : 04 September 2026

Summary : *Application for interim stay of arbitration proceedings pending review of arbitration ruling on point in limine that may be dispositive of the matter – applicable test for interim relief applied - requirements for interim relief - prima facie right – applicable test - relevance of prospects of successful review - whether the impugned ruling on point in limine was based on prescription only and not jurisdictional challenge determinant of prospects of success*

ORDER

1. The further conduct of the arbitration proceedings before the first respondent under the auspices of the second respondent under Case number M.348 are stayed pending the finalisation of the review application in Part B of the application.
 2. The third respondent shall pay costs of Part A of the application, including counsel's costs at scale C of the High Court.
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JUDGMENT

MAPOMA, AJ

[1] The applicant, Agrisa Commodities (Pty) Ltd (*Agrisa*) approached this Court with an application on an urgent basis, seeking in Part A the stay of the

arbitration proceedings that are presided over by the first respondent (*Arbitrator*) under the auspices of the second respondent, the Arbitration Foundation of Southern Africa (*AFSA*), pending the finalisation of the review application in Part B of this application. The application is opposed by the third respondent, Mahek Prepackers cc (*Mahek*), while the first and second respondents have filed their respective notices to abide by the decision of the Court.

[2] In the review application in Part B, the applicant seeks to review and set aside the decision of the arbitrator dismissing Agrisa's jurisdictional challenge, asserting that the arbitrator lacked power to arbitrate its dispute with Mahek. According to Agrisa, the jurisdictional ruling is incompetent for lack of jurisdiction and that the jurisdictional point Agrisa raised is dispositive of the matter and thus reviewable.

[3] Mahek opposes this application on various grounds, the first and foremost being that the matter is not urgent, and that if at all there is any urgency, such was self-created. It is also argued that the application does not meet the requirements that set the threshold for the granting of the interim relief. The thrust of the respondent's contention is that the applicant has no *prima facie* right to the interim interdict, as the review application, among other reasons, has no reasonable prospects of success. Below, I set out the relevant background facts leading up to this matter.

[4] This application was initially set down for hearing on the urgent roll of 28 May 2026. It was postponed at the instance of Mahek due to unavailability of their counsel on that day. This resulted in the matter being removed from the roll and re-enrolled on the urgent roll of 10 June 2026. However, the matter

could not be heard on the urgent roll of 10 June 2026, due to the voluminous nature of documents and the congested roll, hence it was granted early allocation for hearing on 12 August 2026.

[5] Agrisa, the applicant herein, and the defendant in the arbitration proceedings, is a commodity trader in agricultural products, *inter alia*, white maize (*“the grain”*). Mahek, the third respondent, who is the claimant in the arbitration proceedings, is a milling company, milling various agricultural products that include, white maize. Until the disagreement that culminated in these proceedings, Mahek was Agrisa’s customer as it would, from time to time, purchase grain from Agrisa.

Agreements

[6] In May 2023, the parties signed the AgriSA Master Agreement (*“the master agreement”*), which is an umbrella agreement that governs the purchase and sale of grain through the forward procurement provision, which is relevant to the price sensitive 'position', and the contract confirmation, which relates to specific transactions or orders. Along with the master agreement is the industry wide agreement called SAGOS 1, Version 9 (effective from 1 August 2012) that governs the purchase and sale of grain and various products in the industry (*“the SAGOS agreement”*).

[7] Both the master agreement and the SAGOS contract provide for dispute to be settled through the arbitration process. In particular, the master agreement provides for the alternative dispute resolution through AFSA. The standard agreement form for the Contract Confirmation Contract is derived from the SAGOS 1 Version 9 industry-wide standard terms and includes provisions for

dispute resolution as per the SAGOS Rules of Arbitration, to which the parties consented to.

Dispute

[8] The arbitration proceedings are about Mahek's claim for damages against Agrisa. In its claim, Mahek alleged that Agrisa breached the terms of the forward procurement provisions of the purchase contract, resulting in Mahek suffering damages in the amount of R73 943 265.24. The specifics of the damages claim are not necessary or these particular proceedings.

[9] On 2 April 2025, Mahek through its attorneys, addressed a letter to Agrisa notifying the latter of Malek's claim. The relevant paragraph of the letter reads as follows:

"2. In accordance with clause 16.2.3 of the SAGOS 9 version 1 agreement (Contract for purchase and sale of grain, pulses, oilseeds and products derived therefrom) as concluded between Agrisa and Mahek, I hereby give you notice of my client's claim against Agrisa arising from Agrisa's unlawfully and wrongful conduct in respect of my client and my client's position in grain futures."

[10] Clause 16.2.3 that is quoted in the above notification of claim provides as follows:

"16.2.3 Any claim for any failure to perform in terms of the contract shall be notified in writing to the other party within 28 consecutive days from the date on which the other party could reasonably have become aware of such failure. Thereafter it must be referred in writing to the AFSA secretariat within 21 consecutive days from the date of such notification to the other party."

[11] Subsequently, Agrisa responded to Mahek's notification, objecting and contending that the notice was inadequate and non-compliant with Clause 16 of the SAGOS contract. Referring to clause 16, which it claimed is time specific, Agrisa took issue that the notice did not comply with clause 16 in that it lacked particularity regarding the claim. Agrisa demanded that they be properly notified of the claim with specific details as they did not accept what Agrisa referred to as a '*broad and generalised notice of an unspecified claim.*'

[12] On 3 April 2025, Mahek contested Agrisa's interpretation of the clause 16, contending that the information insisted upon by Agrisa would be provided in due course. According to Mahek, Agrisa was not entitled to demanded information at notification stage. This is the precise issue that gave rise to the point *in limine* at the arbitration and subsequently to the review proceedings.

[13] On 23 April 2025, Mahek referred the claim to AFSA for dispute resolution and determination. In the referral, Mahek elaborated in more detail on the factual basis of its claim. Further details were also given in Mahek's subsequent Statement of Claim ("*the SoC*"), in which it alleged that Agrisa committed breach of contract by closing Mahek's positions on 12 March 2025, as a consequence of which Mahek suffered damages in the amount claimed.

[14] In response to the claim, Agrisa submitted a Statement of Defence ("*the SoD*"), wherein it took a preliminary point that the claim had prescribed, because Mahek's notification of the claim by the letter dated 2 April 2025 was inadequate, in that it did not set out the dispute as required by Clause 16 of the SAGOS agreement, lacking detail in respect of the dispute or the alleged claim for any failure to perform in terms of the contract.

[15] Agrisa contended that although the notice dated 2 April 2025 was sent within the required 28 days, the notice was inadequate in that it did not properly and sufficiently identify the dispute between the parties and the nature thereof. Further criticism of the notice was that it did not provide any details of the dispute or the claim as it did not adequately inform the other party of its failure to perform as required by the SAGOS agreement. According to Agrisa, the referral letter of 23 April 2025, which for the first time identified the dispute was 42 days after the claim arose. Accordingly, so argued Agrisa, Mahek's claim was time-barred and had prescribed.

[16] Mahek delivered a replication in response to Agrisa's preliminary point in the SoD, as argued against enforcement of clause 16 on a variety of grounds, whereafter Agrisa in turn delivered a rejoinder. In the rejoinder, Agrisa augmented its preliminary point by setting out the relief it sought and concluded by its prayer for the dismissal of the claim should be granted, '*with the result that the claim or claims are either time barred or the arbitrator has no power or jurisdiction to determine them.*'

[17] On 14 January 2026, having considered the parties' submissions, the arbitrator issued a ruling directing the separate determination of the point *in limine*. In his ruling, the arbitrator reasoned that if the plea *in limine* were to succeed it would dispose of the matter, and as such, it would be just, expeditious and economical for Agrisa's plea *in limine* as set detailed in the relevant paragraphs of the SoD, together with Mahek's replication and Agrisa's rejoinder to be dealt with first as separated from other issues.

[18] Having considered the witness statements, oral evidence and written arguments on the plea *in limine*, the arbitrator delivered his award on 28 March

2025, dismissing Agrisa's point *in limine*. This was followed by the review application, the determination of Part A of which is the subject of the current proceedings. During the argument of this matter, a contentious issue emerged which has a bearing on the interim relief sought. The issue is specifically whether the point *in limine* was a jurisdictional issue. This issue will be dealt with in the discussion below.

Issue for determination

[19] In the context of these proceedings in Part A, this Court must resolve two distinct questions. The first is whether the application is urgent as contemplated in rule 6(12) of the Uniform Rules of Court. Should the court determine adversely, this matter will fall to be struck from the roll. The corollary is that if the Court finds in the affirmative, the second issue will arise.

[20] The second issue is whether Agrisa has made out a case for the grant of interim relief for the stay of the arbitration proceedings pending the finalisation of the review application sought by Agrisa in Part B.

Urgency

[21] Regarding urgency, Agrisa averred that the arbitrator had directed that the arbitration proceedings, which set down for further hearing on 12 and 18 October 2026, would continue notwithstanding that Agrisa had indicated that it seeks to review the impugned arbitrator's ruling. According to the applicant, the arbitrator indicated that he would only stay the proceedings if the parties agreed, or if the court ordered so. It was averred that Mahek was not amenable to the stay.

[22] It was further argued that Agrisa would suffer irreparable harm if it were to be compelled to participate and incur expenses in the arbitration proceedings it contends are incompetent, more so if the review court sets aside the arbitration ruling. It was further submitted that the applicant would be unable to secure substantial redress in the forthcoming hearing if the relief sought is denied.

[23] Mahek argued that this application should be struck from the roll due to lack of urgency. In developing the submission, Mahek contends that any urgency, if it exists, is self-created, as Agrisa, the applicant unduly delayed without reasonable explanation. The impugned award was delivered on 28 March 2026, yet the review was launched only on 7 May 2026.

[24] Mahek contended that the review application itself was launched out of time outside the six-week timeframe allowed by section 33 of the Arbitration Act of 1965 for bringing a review of an arbitration award. According to the respondent, the applicant's dilatory attitude is calculated to frustrate the arbitration process which is an expedited process that was agreed between the parties to resolve the disputes and should not be countenanced by the Court.

[25] Having duly considered the submissions by the parties, I am persuaded by the argument that if the matter were to be dealt with through the normal timeframes, the applicant will not be able to obtain substantial redress, as the matter would be outdated by the time it is prepared for adjudication, rendering any decision academic. Accordingly, I find that it serves the interests of justice for the issue to have been appropriately presented on an urgent basis, and it must be adjudicated accordingly. This leads me to the subsequent question of whether the stay ought to be granted.

Interim Relief for Stay of the Arbitration Proceedings

[26] In terms of section 33(3) of the Arbitration Act 42 1965, a court may, if it considers that the circumstances so require, stay the enforcement of the arbitration award pending the finalisation of the review application. Further, the court has inherent common law discretion, which must be exercised judicially.¹ This power is also derived from section 173 of the Constitution if the interests of justice justify.

[27] The general principles for granting of a stay of execution was summarised in *Gios t/a Shakespear Pub v Van Zyl*,² as that:

- “a) A court will grant a stay of execution where real and substantial injustice requires it or where injustice would otherwise result;
- b) The court will be guided by factors usually applicable to interim interdicts, except where the applicant is not asserting a right, but attempting to avert injustice;
- c) The court must be satisfied that:
 - i) The applicant has a well-grounded apprehension that the execution is taking place at the instance of the respondent;
 - ii) Irreparable harm will result if the execution is not stayed and the applicant ultimately succeeds in establishing a clear right;
- d) Irreparable harm will invariably result if there is a possibility that the underlying causa may ultimately be removed that is where the underlying causa is the subject matter of an ongoing dispute between the parties.
- e) The court is not concerned with the merits of the underlying dispute the sole inquiry is simply whether the causa is in dispute.” (own underlining)

[28] The test for the granting of interim interdict is trite. It is commonly referred to as the four-part test, which assesses if the four established common law criteria for interim relief are satisfied. These requirements, which are well

¹ *Stoffberg NO v Capital Harvest (Pty) Ltd* (unreported WCC case No 2130/2021 dated 2 March 2021) at para [17] to [25]

² 2011(1) SA 148 (LC) at 155H-156B

established as articulated in the historic decision of *Setlogelo v Setlogelo*,³ stipulate that the applicant must show: a) a *prima facie* right, even if open to some doubt, b) a well-grounded apprehension of irreparable harm if the interim relief is not granted and ultimate relief is eventually granted; c) that the balance of convenience favours the granting of the interim relief; and, d) that the applicant has no other adequate or satisfactory remedy. The above requirements were refined in *Webster v Mitchell*.⁴

[29] The Constitutional Court in *National Treasury and Others v Opposition to Urban Tolling Alliance and Others (OUTA)*⁵ confirmed that the *Setlogelo* test, as adapted by case law, continues to be a useful and accessible reference for the courts for issuing of interdicts. The caveat though is that when applying the test, the court must have regards to the constitutional principles that include separation of powers and the principle of legality especially when dealing with the challenge of public power.⁶

[30] Due care is particularly required when considering application for interim relief, as such relief when granted, might interfere with the separation of powers. In such instances, interim relief may only be granted in the clearest of cases. The Constitutional Court pronounced on this position in *International Trade Administration Commission v SCAW South Africa (Pty) Ltd*,⁷ where Moseneke DJP remarked:

“When a court is invited to intrude into the terrain of executive especially when the executive decision-making process is still uncompleted, it must do so only in the clearest

³ 1941 AD 221

⁴ 1948 (1) SA 1186 (W) at 1189

⁵ 2012 (6) SA 223 (CC) at paragraph [45]

⁶ *Mare v CSOS and Others* (supra) at paragraph [31]

⁷ *International Trade Administration Commission v SCAW South Africa (Pty) Ltd* 2012(4) SA 618 (CC) at paragraph [101]

of cases and only when irreparable harm is likely to ensue if in the dictatorial life is not granted...”

[31] The above legal position varies in instances where the interim relief sought relates to review that involves administrative action, as opposed to executive action, in which case a less restrictive approach is adopted. This may hold true and weigh heavily in favour of granting interim relief in cases where a review court may, in due course, refused to set aside the impugned administrative action on the basis that it has already been implemented. In *City of Cape Town v SANRAL*,⁸ Binns-Ward J remarked that the Constitution contemplates that effective remedies should be available for breaches of fundamental right to lawful, reasonable and procedurally fair administrative action.

Evaluation

[32] In what follows, the Court will evaluate the relevant facts in this matter while considering the aforementioned legal principles to determine whether the interim relief sought in the form of stay of the arbitration proceedings is warranted in this case. The crux of the matter is whether Agrisa has met the four-part test requirement for interim interdict.

Prima facie right

[33] Agrisa contends that it has a *prima facie* right to review a decision that it considers irregular and thus unlawful, and as such, it has a right not to be subjected to unlawful quasi-judicial proceedings. To fortify this argument, Agrisa argues that the arbitrator has no jurisdiction to arbitrate the matter based on two grounds, which Agrisa contends were misconstrued by the arbitrator. The first is that the notification of claim was inadequate for it did not comply

⁸ 2013 JDR 1022 (WCC) at Paragraph 78; See also Hoexter, *Administrative Law in South Africa*, 3ed, p808;

with clause 16 of the SAGOS agreement. The second is that there is no dispute to adjudicate, because at the time the claim was referred, it was out of time and had prescribed. Absent the arbitrable dispute, there is no jurisdiction on the part of the arbitrator, so it is argued.

[34] The stance taken by the arbitrator that the arbitration proceedings had to proceed notwithstanding the review application cannot be faltered, for unless the jurisdictional ruling is set aside by court, it remains in force. This accords with the principle of *Oudekraal Estates (Pty) Ltd v City of Cape Town*,⁹ as affirmed by the decision in *MEC for Health Eastern Cape v Kirland Investments (Pty) Ltd*.¹⁰ This position holds even if there is a review application unless the court orders the stay of the award if the circumstances so require.

[35] Mahek refutes Agrisa argument, and contends that Agrisa has no *prima facie* right, primarily because the review is ‘still born’ and due to its hopelessness, it holds no reasonable prospects of success. Mahek asserts the impugned ruling was not a jurisdiction ruling, and that Agrisa seeks to introduce a new jurisdictional point that was never placed before the arbitrator. According to Mahek, the only issue that Agrisa took on the plea *in limine* was prescription of the claim owing to inadequate notice, which lacked merit. Mahek argued that the issue of lack of jurisdiction was only introduced in the review application.

[36] Before dealing with above contentions, I must set out the courts’ approach on the test for existence of *prima facie* right. In *OUTA*,¹¹ the Constitutional Court made it clear that mere right to approach the court relying on the right to administrative action that is lawful, reasonable and procedurally fair as

⁹ 2004 (6) SA 222 (SCA)

¹⁰ 2014 (3) SA 481 (CC)

¹¹ 2012 (6) SA 223 (CC) at paragraph [49]

pronounced in section 33 of the Constitution, read with PAJA, is not enough to satisfy the requirement of *prima facie* right to interim interdict pending review of the impugned decision. The court held that *prima facie* for this purpose is a right to which, if not protected by an interdict, irreparable harm would ensue.¹²

[37] The above notwithstanding, in evaluating *prima facie* right in interim interdict to suspend an order pending review, the court hearing the interdict must examine the grounds of the pending review to satisfy that the review has prospects of success. In *Economic Freedom Fighters v Gordhan and Others: Public Protector; Public Protector v Gordhan and Others*,¹³ the court clearly articulated the need to evaluate the stay of the impugned decision pending review to assess the prospects of success of the review. Adopting this principle, in *Ramaphosa v Speaker of the National Assembly and Others*,¹⁴ the Court held that the review must rest on strong grounds which are likely to succeed, and the interdict may properly be granted only where the Court is persuaded that the review is likely to succeed.

[38] In *Webster v Mitchell*, the court held that in assessing *prima facie* right, the right to be set out by an applicant for a temporary interdict need not show by balance of probabilities. If it is *prima facie* established though open to some ‘doubt’, that is enough. The Court will thus assess *prima facie* right in this case having regards to the prospects of success and the grounds of opposition advanced by the respondent.

[39] The parties are *ad idem* that the issue of whether the applicant has met the required threshold for *prima facie* right to the relief it seeks turns on whether the

¹² 2012 (6) SA 223 (CC at paragraph [50])

¹³ 2020 (6) SA 325 (CC)

¹⁴ 2026-138228[2026] ZAWCHC 371 (24 July 2026) at paragraph 13

applicant enjoys reasonable prospect of success in the review. The central issue that permeates the review grounds is the issue of lack of jurisdiction on the part of the arbitrator. Having looked at the grounds of review, it appears to me that central in Agrisa grounds of review is the very point of lack of jurisdiction. The determination in my view is best left for the review court, but the issue of whether there are reasonable prospects of success remains for consideration by this Court to determine whether the applicant has a *prima facie* right to the relief sought.

[40] As I mentioned above, essentially Mahek contends that the jurisdictional issue is not an issue for review, for it is not a matter that served before the arbitrator. Mahek argued that what is before the review court is in essence nothing more than an appeal masquerading as a review. Thus, the acid test is whether Agrisa did not raise the jurisdictional point in the plea *in limine* at the arbitration proceeding that resulted in the impugned ruling as contended by Mahek. Agrisa contends it did.

[41] Advancing his argument that Agrisa raised the jurisdictional point for the first time in the review, Counsel for Mahek, referred the Court to both Agrisa's statement of defence and rejoinder to illustrate that the jurisdiction point was never before the arbitrator. Indeed, in the statement of defence articulating the point *in limine*, Agrisa argues that the '*the claim in this arbitration is time-barred and has subsequently prescribed*'. However, in the rejoinder Agrisa captured the relief it sought as that Mahek's claims should be dismissed as '*the claims or claims are either time barred or the Arbitrator has no power or jurisdiction to determine them.*'"

[42] I am not persuaded by the arguments that the jurisdictional point did not feature in the ruling that is under review. It seems to me, the prescription was based on the provisions of clause 16, non-compliance of which would give rise to absence of arbitrable dispute which is a jurisdictional issue. If the point *in limine* taken by Agrisa was prescription of the claim due to inadequate notice, it stands to reason that if the arbitrator were to find that the claim had prescribed, the consequence would be absence of the dispute and thus absence of jurisdiction on the part of the arbitrator.

[43] In any event, Agrisa spelt out this point in the rejoinder before the arbitrator considered the plea *in limine*. While I am not at liberty to ‘gaze into a crystal ball’ and foretell the outcome of the review on the above issue, I am unable to find that do the basis postulated by the respondent, the applicant’s review has no reasonable prospects if success. On the contrary, my view is that the applicant has a formidable case that is arguable in the review proceedings. Though it may be open to some doubt, the point raised by the applicant enjoys reasonable prospects of success on review. I therefore find that the applicant has met the threshold of a *prima facie* right in this matter.

Irreparable harm

[44] In *Outa*,¹⁵ the court held that an applicant for an interim interdict is required to establish a right to which irreparable harm would ensue if not protected by an interdict. The test is objective, namely, whether a reasonable person, confronted by the same facts, would apprehend the probability of harm.¹⁶ Actual harm need not be established by probabilities.¹⁷

¹⁵ See *Outa* (supra) paragraph 50

¹⁶ *RS v MS* 2014(2) SA 511(GJ) paragraphs 26-28

¹⁷ *SANRAL v City of Cape Town; Protea Parkway Consortium v City of Cape Town* [2014] All SA 497 (WCC)

[45] Agrisa contends that being compelled to participate at considerable costs in arbitration proceedings whose validity it challenges before the arbitrator, whose competence to make any determination carries a risk of irreparable harm if the proceedings continue. It was further argued that should the review court find in Agrisa's favour, that decision would be dispositive of the matter, but the harm would be irreparable, in that by that time the arbitration proceedings would have been finalised and the outcome irreversible.

[46] This is countered by Mahek, who argued that Agrisa's participation in the arbitral proceedings that were agreed upon does not meet the test of irreparable harm. It was further argued that the scale of substantial prejudice would be tilted in favour of Mahek if the stay is granted and review ultimately fails.

[47] In *Builda Construction Cape Propriety Limited v Verveen and Another*,¹⁸ in a case where the applicant contested the arbitration forum, the court held that it would be impractical to continue with arbitration proceedings whilst the applicant was challenging the arbitration forum. The court held if the applicant is successful later on review and the findings confirm that the matter was not arbitrable, the applicant having been forced to participate in such proceedings and having incurred costs, the prejudice applicant would suffer would be greater than the respondent if the arbitration proceedings were not stayed.

Balance of convenience

[48] For the applicant to succeed, the balance of convenience must be in favour of the grant of the stay. The court must weigh the prejudice the applicant will suffer if the interim order is not granted against the harm the respondent will

¹⁸ [2023] ZAGPPHC 178 (22 March 2023)

suffer if it is granted, bearing in mind the wider public interest and the underlying principles of the democratic society.

[49] I have concluded that *prima facie* right to the stay pending review has been established, and that the applicant will suffer irreparable harm if the stay is not granted, more so in the event of the applicant succeeding in the review. Having considered the balance of prejudice to both parties, I take the view that the prejudice applicant will suffer if the stay is not granted.

Absence of other adequate remedy

[50] It is trite that in order for the applicant for interim interdict to succeed, there must be no alternative legal remedy available which provides satisfactory redress for the harm complained of.

[51] According to the applicant, the arbitrator indicated to the applicant that he can only halt the arbitration proceedings if it is by the order of this Court. The applicant submits that he has no other alternative remedy in the present circumstances except to seek the stay of the arbitration process pending the review in part B. The respondent contends that the applicant is not short of alternative remedy, for it has access to the arbitration process as alternative remedy. It is further argued that if the applicant is not satisfied with any misdirection of the arbitrator, the applicant would be at liberty to approach the court to review any unsatisfactory interim award from the arbitration process.

[52] I do not find the arbitration process whose impugned interim award is awaiting review as an adequate alternative remedy. Having considered the facts of this case, I am satisfied that the applicant has no alternative remedy suited for the present situation but these proceedings. Accordingly, I hold the view that the

applicant has met all the requirements for the interim relief sought, and I am therefore satisfied that the applicant has succeeded in the application for the stay of the arbitration proceedings pending the finalisation of the review application in Part B.

Costs

[53] It is an established principle that costs follow the results. I find no reason to deviate from this principle in this case. The applicant has succeeded in this application and is therefore entitled to an award of costs.

Order

[54] In the result, the following order is made:

1. The further conduct of the arbitration proceedings before the first respondent under the auspices of the second respondent under Case number M.348 are stayed pending the finalisation of the review application in Part B of the application.
2. The third respondent shall pay costs of Part A of this application, including counsel's costs at scale C of the High Court.

ZL MAPOMA
Acting Judge of the High Court

Appearances

Counsel for the Applicant : Adv RGL Stelzner SC and
Adv JR Adv Whitaker

Instructed by : Jordaan Ferreira Inc, Somerset West

Counsel for the 3rd Respondent : Adv In person

Instructed by : Dasoo Attorneys, Johannesburg