



**THE HIGH COURT OF SOUTH AFRICA
MPUMALANGA DIVISION, MIDDELBURG**

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

CASE NO: 081112-2025

J T LESO 08 SEPTEMBER 2026

In the matter between:

**CREDIT GUARANTEE INSURANCE CORPORATION
OF AFRICA LIMITED**

Plaintiff

And

SFT ENERGY PTY LTD

First Respondent

SFT PROPERTY INVESTMENTS PTY LTD

Second Respondent

(IN LIQUIDATION)

KESEGAN SUBRAMONEY

Third Respondent

JUDGMENT- LEAVE TO APPEAL

LESO AJ,

INTRODUCTION

1] The applicant seeks leave to appeal an *ex tempore* judgment handed down by this court on 7 May 2026. dismissing claims for R36.6 million related to a guarantee and premium disputes and the costs order awarded in favour of the respondents.

Grounds for Appeal

- 2] The applicant argues the judge erred in reading demands under written indemnity, claiming the demands were consistent.
- 3] The applicant contends the judge misapplied discretion by ordering costs on an attorney-client scale without factual basis.
- 4] The applicant claims the judge failed to consider the express terms of the indemnity and suretyship agreements.
- 5] The applicant disputes the consideration of an incorrect premium invoice and the calculation of the claim amount.
- 6] The applicant asserts the judge erred in dismissing the application and seeks a different outcome.

ANALYSIS AND THE APPLICABLE LAW

- 7] The application is brought in terms of Rule 49(1)(b) of the Uniform Rules of the Court read with section 17(1)(a) of the Superior Court Act 10 of 2013.
- 8] Section 17(1)(a) deals with leave to appeal and sets a higher standard for granting leave to appeal as follows:
 - (1) *Leave to appeal may only be given where the judge or judges concerned are of the opinion that—*
 - (a)
 - (i) *the appeal would have a reasonable prospect of success; or*
 - (ii) *there is some other compelling reason why the appeal should be heard, including conflicting judgments on the matter under consideration;*
- 9] In terms of the Act, leave to appeal may only be granted if the judge is of the opinion that the appeal would have a reasonable prospect of success.
- 10] The applicant also appeals the cost order, citing incorrect application of the discretion by the court, incorrect reading of the invoices and incorrect considerations of the invoices, and misapplication of legal principles.

11] The court found inconsistencies in demand amounts and rejected the application due to unsupported claims, emphasizing the need for proper evidence and legal clarity. The court found inconsistencies in the demand figures, specifically R35 million and R36 million, which undermined the claim and dismissed the application due to unsupported claim amounts and lack of proper evidence.

12] I therefore find that the Court did not err in reading the demands and the written indemnity issued by the applicant as claimed by the applicant. The Court has emphasized procedural irregularities, including raising disputes about the premium invoice at the hearing and concluded the applicant's claim was not properly substantiated and dismissed the application with costs.

13] I am however of the view that another court might come to a different conclusion on whether the applicant is entitled to *“any loss or expense of whatsoever nature which the applicant may sustain as a result of issuing a guarantee on behalf of the First Respondent in terms of the agreed indemnity”*. According to the applicant. The applicant does not have to prove the amount claimed (my emphasis) and therefore my finding of an inconsistent amount is incorrect.

14] On the order of costs, it is trite that the successful party should be entitled to costs. The order on punitive scale was based on the consideration of the case presented and the arguments presented by the respondent. I find that another court would come to a different conclusion in the event the appeal succeeds.

ORDER

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

1. Leave to appeal to the full court of this Division is granted.
2. Costs are costs in the course.

(This judgment is handed down electronically by uploading to the electronic file of this matter on CaseLines and by email to the Parties/their legal representatives by email. The date of this Order is deemed to be 08 September 2026)


J T LESO
ACTING JUDGE OF THE HIGH COURT
MPUMALANGA DIVISION, MIDDELBURG

APPEARANCES:

For the Applicants:

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Date of Hearing: 03 June 2026
Date of Delivery: 08 September 2026