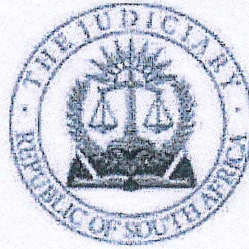


"FA3"

REPUBLIC OF SOUTH AFRICA



IN THE HIGH COURT OF SOUTH AFRICA

GAUTENG DIVISION, PRETORIA

CASE NO: 57045/20

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

Date: 1 March 2022 E van der Schyff

In the matter between:

In the matter between:

KINGSGATE CLOTHING (PTY) LTD

FIRST APPLICANT

MAYTEX LINEN CC

SECOND APPLICANT

SUPER OCEAN TRADING CC

THIRD APPLICANT

MAYTEX CARDING CC

FOURTH APPLICANT

CRUISE COLLECTIONS CC

FIFTH APPLICANT

TWIN CLOTHING MANUFACTURERS (PTY) LTD

SIXTH APPLICANT

APPAREL INDUSTRIES (PTY) LTD

SEVENTH APPLICANT

CLEMATIS TRADING (PTY) LTD

EIGHTH APPLICANT

L.W.

and

EDCON LIMITED (IN BUSINESS RESCUE)	FIRST RESPONDENT
PIERS MARSDEN (JOINT BUSINESS RESCUE PRACTITIONER)	SECOND RESPONDENT
LANCE SHAPIRO (JOINT BUSINESS PRACTITIONER)	THIRD RESPONDENT
JUSTICE FDJ BRAND	FOURTH RESPONDENT


JUDGMENT

Van der Schyff J

Introduction

- [1] In this judgment, the parties are referred to as in the main application.
- [2] The applicants filed an application for leave to appeal against the whole of the judgment and order delivered on 15 November 2021. The applicants raised several grounds of appeal. I do not intend to deal with these grounds herein, as I handed down a written judgment wherein I provided the reasons for my findings. The grounds of appeal generally constitute a re-arguing of matters argued when the application was heard.
- [3] It is trite that to succeed in an application for leave to appeal, 'more is required to be established than that there is a mere possibility of success, that the case is arguable on appeal or that the case cannot be categorised as hopeless.'¹
- [4] The applicants submit that a compelling reason exists for leave to appeal to be granted to them. I disagree. The importance of context in interpreting documents, and the admissibility of contextual evidence do not constitute a novel ground that needs to be pronounced on by the Supreme Court of Appeal.

¹ *Smith v S* 2012 (1) SACR 567 (SCA) at para 7.

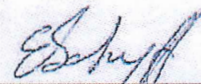
C.N. 

- [5] After considering the grounds of appeal, I am not of the opinion that a reasonable probability exists that another court would or could come to a different conclusion.
- [6] Regarding costs, the application for leave to appeal was not complex. The respondents did not file heads of argument and the submissions made by counsel was to the point and curt. Opposing the application for leave to appeal did not require the service of two counsel.

ORDER

In the result, the following order is made:

1. The application for leave to appeal is dismissed with costs.




E van der Schyff

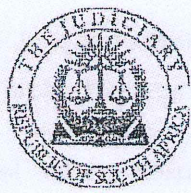
Judge of the High Court

Delivered: This judgement is handed down electronically by uploading it to the electronic file of this matter on CaseLines. It will be sent to the parties/their legal representatives by email as a courtesy gesture. The date for hand-down is deemed to be 1 March 2022.

Counsel for the applicants:	Adv. O A Moosa SC
With:	Adv. A MacManus
Instructed by:	Pather and Pather Attorneys Inc.
Counsel for the 1 st – 3 rd respondents:	Adv. A E Bham SC
With:	Adv. J. E Smit
Instructed by:	ENS Africa
Date of the hearing:	21 February 2022
Date of judgment:	1 March 2022

L.N. 

"FA 4"



IN THE HIGH COURT OF SOUTH AFRICA
(GAUTENG DIVISION, PRETORIA)

CASE NO: 57045/2020

PRETORIA 1 MARCH 2022

BEFORE THE HONOURABLE MADAM JUSTICE VAN DER SCHYFF

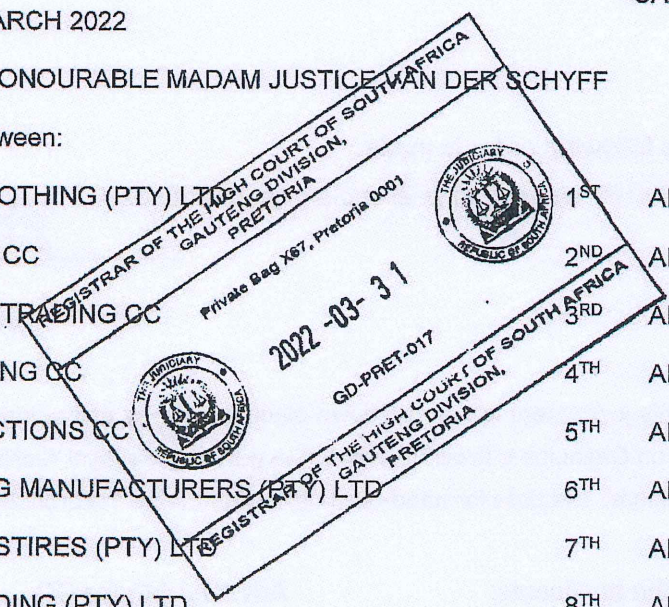
In the matter between:

- | | | |
|---------------------------------------|-----------------|-----------|
| KINGSGATE CLOTHING (PTY) LTD | 1 ST | APPLICANT |
| MAYTEX LINEN CC | 2 ND | APPLICANT |
| SUPER OCEAN TRADING CC | 3 RD | APPLICANT |
| MAYTEX CARDING CC | 4 TH | APPLICANT |
| CRUSE COLLECTIONS CC | 5 TH | APPLICANT |
| TWIN CLOTHING MANUFACTURERS (PTY) LTD | 6 TH | APPLICANT |
| APPAREL INDUSTRIES (PTY) LTD | 7 TH | APPLICANT |
| CLEMATIS TRADING (PTY) LTD | 8 TH | APPLICANT |

AND

- | | | |
|---|-----------------|------------|
| EDCON LIMITED
(IN BUSINESS RESCUE) | 1 ST | RESPONDENT |
| PIERS MARSDEN
(JOINT BUSINESS RESCUE PRACTITIONER) | 2 ND | RESPONDENT |
| LANCE SHAPIRO
(JOINT BUSINESS PRACTITIONER) | 3 RD | RESPONDENT |
| JUSTICE FDJ BRAND | 4 TH | RESPONDENT |

HAVING HEARD counsel for the parties and having read the application for leave to appeal against the judgment of the Honourable Justice VAN DER SCHYFF delivered on 15 NOVEMBER 2021



L.W. / 43

IT IS ORDERED THAT

JUDGMENT

The application for leave to appeal is dismissed with costs.

HH
ATT: PATHER AND PATHER INC

BY THE COURT

REGISTRAR OF THE HIGH COURT OF SOUTH AFRICA
GAUTENG DIVISION
PRETORIA



Private Bag 767, Pretoria 0001

REGISTRAR

2022-03-31

GD-PRET-017

REGISTRAR OF THE HIGH COURT OF SOUTH AFRICA
GAUTENG DIVISION,
PRETORIA



[Handwritten signature]

L.W. *[Handwritten signature]*

