

IN THE HIGH COURT OF SOUTH AFRICA
FREE STATE DIVISION, BLOEMFONTEIN

Case No. : 1891/2013

In the matter between:-

<u>REALEBOGA BOSALETSE N.O.</u>	First Applicant
<u>LUCY AMMON N.O.</u>	Second Applicant
<u>PUMZILE F. NGXITO N.O.</u>	Third Applicant
<u>MASEHLEPHO E. MOHAJANE N.O.</u>	Fourth Applicant
<u>TSIETSIE JOSEPH TAU N.O.</u>	Fifth Applicant
<u>DITABA L. SEBONYANE N.O.</u>	Sixth Applicant
<u>AADIL MATHER N.O.</u>	Seventh Applicant
<u>PATRICK A. MABILO N.O.</u>	Eighth Applicant
<u>ESIAS JEREMIA GERBER N.O.</u>	Ninth Applicant
<u>YUSUF KERBELKER N.O.</u>	Tenth Applicant
<u>FLOYD TEU N.O.</u>	Eleventh Applicant
<u>WHEATFIELDS INVESTMENTS NO. 168 (PTY) LTD</u>	Twelfth Applicant

and

<u>THE MINISTER OF MINERAL RESOURCES</u>	First Respondent
<u>DIRECTOR-GENERAL, DEPARTMENT OF MINERAL RESOURCES</u>	Second Respondent
<u>ACTING REGIONAL MANAGER MINERAL RESOURCES, FREE STATE REGION</u>	Third Respondent
<u>DE BEERS CONSOLIDATED MINES LTD</u>	Fourth Respondent
<u>PONAHALO HOLDINGS (PTY) LTD</u>	Fifth Respondent
<u>REINET FUND SCA FIS</u>	Sixth Respondent
<u>JAGERSFONTEIN DEVELOPMENTS (PTY) LTD</u>	Seventh Respondent

<u>MARIUS DE VILLIERS N.O.</u>	Eighth Respondent
<u>HENK JOHAN VAN ZUYDAM N.O.</u>	Ninth Respondent
<u>SIPHO PUWANI N.O.</u>	Tenth Respondent
<u>GONTHUSANG EUGINE GOLIATH N.O.</u>	Eleventh Respondent
<u>EZEKIEL ZAKHELE DUNJANE N.O.</u>	Twelfth Respondent
<u>KOPANONG LOCAL MUNICIPALITY</u>	Thirteenth Respondent

CORAM: MOCUMIE J, et MOLEMELA J, et JORDAAN J,

DELIVERED ON: 15 APRIL 2014

LEAVE TO APPEAL

MOCUMIE, J

[1] This is an application for leave to appeal against the whole of the judgment and order by the applicants to the Supreme Court of Appeal. The grounds for the application are numerous as set out in the notice of application for leave to appeal and need not be repeated. The application is opposed by all the respondents except the first to the third respondents who abide the decision of the court. I am indebted to all counsel for the detailed heads of arguments which were helpful.

[2] I have had the benefit of revisiting the judgment under attack and deem it unnecessary to traverse it paragraph by

paragraph or to consider each ground of appeal separately suffice to say the following.

- [3] The proper approach to determining whether a judgment or order is appealable to the Supreme Court of Appeal is well settled.¹ For a judgment or order to be appealable to the Supreme court of Appeal the judgment or order must be final in effect; not be susceptible of alteration by the court of first instance; and definitive of the rights of the parties.
- [4] The order of this court is expressly confined to the interim relief under Part A of the notice of motion as sought by the applicants. The applicants have not and could not contend that the relief sought and granted was final in form or in effect. The applicants albeit open to them to argue that, notwithstanding the interim nature of the relief which they sought at the hearing, the dismissal of this application for interim relief was in effect final and definitive of the rights of the parties, had failed to make out such a case in their notice of application for leave to appeal or in their detailed heads of argument. A judgment and order of this nature is not appealable. The application falls to be dismissed on this basis alone.

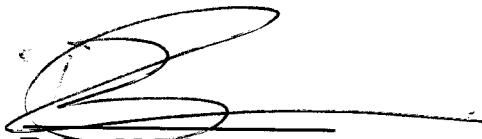
¹ Zweni v Minister of Law and Order 1993 (1) SA 523 (A); Government of South Africa and Others v Von Abo 2011 (5) SA 262 (SCA)

[5] As a result the question whether there are reasonable prospects that another court may reach a different conclusion hardly comes into play.

[6] In the result, the following order is granted.


ORDER

Leave to appeal to the Supreme Court of Appeal is dismissed with costs.



B.C. MOCUMIE, J

I concur,



MOLEMELA, J

I concur,



JORDAAN, J

On behalf of applicants: Adv Ellis
Instructed by:
Peyper Sesele Attorneys Inc.
BLOEMFONTEIN

On behalf of respondents: Adv Loxton and Van der Nest
Instructed by:
Vosloo Attorneys
BLOEMFONTEIN