

S U M M A R Y

Company law – Companies Act 71 of 2008 – applicants not contend with respondents' conduct relating to Black Economic Empowerment ("*BEE issue*") – applicants contending that conduct of respondents or related persons has had a result that is oppressive or unfairly prejudicial to applicants, or unfairly disregards the interests of applicants – applicants seeking relief in terms of section 163 of Companies Act No 71 of 2008 – ("*new Companies Act*") – the difference between relief sought in terms of new Companies Act and section 252 of the old Companies Act No 61 of 1973 – proper and wider interpretation and construction to provisions of sections 2 and 163 of new Companies Act – arbitration – jurisdiction of – question as to whether BEE issue is arbitrable issue as contended by respondents – *onus* of proof on party relying on arbitration clause in Shareholders' Agreement – absence of disputes of fact.