



**IN THE HIGH COURT OF SOUTH AFRICA
GAUTENG LOCAL DIVISION, JOHANNESBURG**

CASE NO:29174/2019

(1) REPORTABLE: NO

(2) OF INTEREST TO OTHER JUDGES: NO /

(3) REVISED: YES

Date: 8 December 2023

In the matter between:

ABSA BANK LIMITED

APPLICANT/RESPONDENT

And

AA DIAMONDS (PTY) LTD

RESPONDENT/APPLICANT

LEAVE TO APPEAL JUDGEMENT

ALLY AJ

This is an application for leave to appeal launched by the Respondent against the whole of my judgement dated 21 May 2021.

[2] The parties in this application were represented by Adv. J.W. Steyn for the Applicant/Respondent and Mr L. Marks for the Respondent/Applicant.

[3] The parties are referred to as in the main application for the sake of convenience.

[4] It has now become trite that the test in applications for leave to appeal has changed to one which is heightened¹. The Respondent is accordingly required to convince this Court that another Court 'would' come to another conclusion.

[5] I do not deem it necessary to repeat the grounds of appeal in this judgement save to state that I have considered all the grounds as well as the submissions of both parties in this application.

[6] I remain unconvinced that another court would come to a different conclusion and accordingly I am of the view that there are no reasonable prospects of success and there are no compelling reasons to grant this application for leave to appeal. Accordingly, the application must fail and costs must follow the result.

[7] Accordingly, the following Order shall issue:

- a). The application for leave to appeal by the Respondent is dismissed with costs.

¹ The Mont Chevaux Trust v Tina Goosen 3 November 2014 (unreported judgement LCC Case No: LCC14R/2014; The Acting National Director of Public Prosecution v Democratic Alliance (unreported case no: 19577/09 dated 24 June 2016); First Reality (Pty) Ltd v Mitchell & Others 2021 ZALCC 21 dated 23 August 2021 @ para 2



ACTING JUDGE OF THE HIGH COURT
GAUTENG LOCAL DIVISION OF THE HIGH COURT, JOHANNESBURG

Electronically submitted therefore unsigned

Delivered: This judgement was prepared and authored by the Judge whose name is reflected and is handed down electronically by circulation to the Parties/their legal representatives by email and by uploading it to the electronic file of this matter on CaseLines. The date for hand-down is deemed to be 8 December 2023.

Date of virtual hearing: 29 June 2023

Date of judgment: 8 December 2023

Appearances:

Attorneys for the Applicant/Respondent	: JAY MOTHOB I INC quentin@jay.co.za/esme@jay.co.za
Counsel for Applicant/Respondent	: Adv. J.W. Steyn
Attorneys for the Respondent/Applicant	: LARRY MARKS ATTORNEYS info@lam.co.za