REPUBLIC OF SOUTH AFRICA

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

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

19/01/2023 .....

DATE SIGNATURE

CASE NO: **16306/2022**

In the matter between:

MOLEFE RUFARO MTHULISI DLODLO Appellant

and

THE MINISTER OF JUSTICE AND CONSTITUTIONAL DEVELOPMENT 1st Respondent

THE RULES BOARD FOR COURTS OF LAW 2nd Respondent

Coram: Dlamini J

Date of hearing: 24 November 2022 – in a 'virtual Hearing' during a videoconference on Microsoft Teams digital platform.

Date of delivery of reasons: 19 January 2022

This judgment is deemed to have been delivered electronically by circulation to the parties' representatives via email and shall be uploaded onto the caselines system.

JUDGMENT

DLAMINI J

[1] This an application for leave to appeal my judgment that I handed down on 19 October 2022.

[2] It is common cause that when the matter came before me, the parties agreed that only the point *in limine* of res judica should be argued as this will the effect of disposing the matter without dealing with the merits thereof.

[3] The numb of the issue was whether Judge Motojane had already made a ruling dismissing a similar application seeking the same ordes against the same parties under case number 2018/ 16715. Justice Matojane dismissed this application with a punitive costs order. Instead of appealing Matojane J's order, the applicant brought the same application before me under a different case number.

[4] It is trite that for an application for leave to appeal to be successful it is required of the parties seeking such leave to demonstrate that there are reasonable prospects that another Court will come to a different conclusion to that reached in the judgment that is sought to be taken on appeal.

[5] The provisions of section 17 of the Supreme Court Act has now elevated the test to be applied for granting of leave to appeal. The use of the word "would" when considering the prospects of success in section 17 (1)(a)(i) , now imposes a more stringent and vigorous threshold.

[6] I have read the heads of argument and heard and submissions both parties .

[7] It is my considered view there is no ambiguity in Motojane J's judgment ,unless it is reviewed, appealed and set aside, the judgment remains valid and should be followed. It is therefore impermissilble for the applicant, to enroll the same application under a different case number instead of appealing Matojane's order.

For all the reasons stated above and in my judgment, I make the following order:

ORDER

The application for leave to appeal is dismissed with costs

DLAMINI J
JUDGE OF THE HIGH COURT OF SOUTH AFRICA
GAUTENG LOCAL DIVISION, JOHANNESBURG

Date of hearing:	24 November 2022
Delivered:	19 January 2023
For the Applicants:	Adv AJ Venter
Email:	ajventer@law.co.za
Instructed by:	Martins Weir-Smith
For theRespondent:	SG Dos Santos
Email:	suzydsantos@gmail.com
Instructed by:	James Bush