



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

CASE NO: 12395/2014

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

05/02/24

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Date



.....
ML TWALA

In the matter between:

LARRY LIPSCHITZ

APPLICANT

And

BRIAN STEPHEN CROOK

FIRST RESPONDENT

THE SHERIFF, SANDTON SOUTH

SECOND RESPONDENT

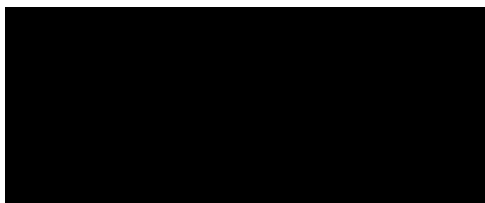
JUDGMENT

TWALA J

- [1] For the sake of convenience I propose to refer to the parties herein as they were referred to in the main application.
- [2] The first respondent brought this application for leave to appeal against the whole judgment and order of this Court handed down electronically on 22 December 2023. The applicant launched a conditional cross appeal that depended on whether the Court grant the first respondent leave to appeal the judgment. It is worth noting that the second respondent is not participating in this application for leave to appeal and cross appeal since he did not participate in the main application.
- [3] It is a trite principle of our law that leave to appeal may only be given where the Judge or Judges concerned are of the opinion that the appeal would have a reasonable prospect of success or where there is some other compelling reason why the appeal should be heard, including conflicting judgments on the matter under consideration. (*See section 17 (1)(a)(i) and (ii) of the Superior Courts Act, 10 of 2013*).
- [4] The grounds for the leave to appeal are succinctly stated in the notice of application for leave to appeal and I do not intend to repeat them in this judgment. Furthermore, I am grateful to both counsel for the parties for the heads of argument and submissions made at the hearing of this application for leave to appeal.
- [5] I am satisfied that I have covered and considered all the issues raised in the application for leave to appeal and the cross appeal in my judgment. I am therefore not persuaded by the submission of both parties that there are reasonable prospects of success in these appeals. Put differently, I am of the view that there is no prospect that another Court would come to a different conclusion in this case. Therefore, both the application for leave to appeal the judgment and the cross appeal fall to be dismissed.

[6] In the circumstances, I make the following order:

1. Both the application for leave to appeal and the cross appeal are dismissed.
2. The first and second respondents are liable to pay the costs of both the application for leave to appeal and the cross appeal including the costs of two counsel.



TWALA M L
JUDGE OF THE HIGH COURT OF SOUTH AFRICA
GAUTENG LOCAL DIVISION

Delivered: This judgment and order was prepared and authored by the Judge whose name is reflected and is handed down electronically by circulation to Parties / their legal representatives by email and by uploading it to the electronic file of this matter on Case Lines. The date of the order is deemed to be the 5th of February 2024.

For the Applicant: **Advocate R Hutton SC**
Advocate C Picas

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For the first Respondent: **Advocate E Rudolph**

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Date of Hearing: 1st of February 2024

Date of Judgment: 5th of February 2024