

REPUBLIC OF SOUTH AFRICA**IN THE HIGH COURT OF SOUTH AFRICA
(GAUTENG DIVISION, JOHANNESBURG)****CASE NUMBER: 49039/2021****DATE OF HEARING: 30 September 2022****DELETE WHICHEVER IS NOT APPLICABLE**REPORTABLE: no
OF INTEREST TO OTHER JUDGES: no_____
DATESIGNATURE

In the matters between:

MAXWELL MAVUDZI**First Applicant****JEREMIAH NYASHA MUSIWACHO DUBE****Second Applicant**

and

SKHUMBUZO MAJOLA**Respondent**

This judgment has been delivered orally on 30 September 2022 in court and was thereafter revised and uploaded to the caselines, and further and communicated to the parties by email.

APPLICATION FOR LEAVE TO APPEAL JUDGMENT

Sutherland DJP

Introduction

- [1] We have read the notice for application for leave to appeal which was extensive in its detail and we have heard argument from Mr Mavudzi and from council on behalf of the Legal Practice Council and on behalf of the National Prosecuting Authority for Mr Majola whose conduct is the subject matter of the case.
- [2] The application for leave to appeal in our view must be dismissed. The premise of the application for leave to appeal is that a Court of Appeal is likely to overturn the decision of this court which was to refuse an application to strike off Advocate Majola. In circumstances where there had been no investigation of the allegations of misconduct.
- [3] The argument that was presented by Mr Mavudzi today essentially was premised on the fact that the contention advanced on the Court of Appeal would be satisfied to make a finding of fact that there was misconduct on the part of Advocate Majola and that in turn an application to strike him off would be appropriate. That is the threshold that needs to be exceeded in order for the application to succeed.

[4] It is plain in our view that there is no merit in that contention and the prospects of another court finding otherwise and overturning the order are non-existent.

[5] There was a related argument in relation to costs and whether or not it was proper for the State Attorney to afford its assistance at public expense on behalf of Advocate Majola and so the argument ran that he should afford his own legal expenses. Ergo the order made out in the main application that Mr Mavudzi pay the costs of the application is inappropriate. In our view the premise of that argument is ill-founded as it is plain that Advocate Majola's misconduct, that is what the ultimate conclusion is and the Legal Practice Council was misconducted in the course of his efficient capacity.

[6] It seems in our view given the considerations I referred to that the costs of this application should also be borne by Mr Mavudzi.

[7] Accordingly, I make the following order:

(1) The application for leave to appeal is dismissed.

(2) The first and second applicants shall bear the costs of this application

Sutherland DJP

I agree:

Molahlehi J

Heard: 30 September 2022

Judgment: 30 September 2022

The Applicants were represented by the first Applicant, in person.

The First and Third respondents (Adv S Majola and the National Prosecuting Authority):

Adv C Georgiades SC

Instructed by the State Attorney.

The Second respondent (The Legal Practice Council):

Adv T C Tshavhungwa,

Instructed by