

IN THE HIGH COURT OF
GAUTENG LOCAL DIVISION,



SOUTH AFRICA
JOHANNESBURG

CASE NO: 18440/2022

1. Reportable: No
2. Of interest to other judges: No
3. Revised

Wright J
20 February, 2024

In the matter between:

USISIWE MANZANA

B

APPLICANT

and

CHARLES MAGAIZA

FIRST RESPONDENT

JULIANA MAGAIZA

SECOND RESPONDENT

JUDGMENT – APPLICATION FOR LEAVE TO APPEAL - WRIGHT J

1. The respondents in the present application for leave to appeal, Charles and Juliana Magaiza through their attorney filed notices to abide my decision in this application. They did so after Charles Magaiza had filed an affidavit styled "*answering affidavit* " to the application for leave to appeal. There is no application by Ms Manzana to strike out this affidavit. Mr Magaiza sets out the alleged dilatory tactics used by Ms Manzana in this matter. He says that she owns ten properties in the Eastern Cape.
2. Ms Manzana appeared in person in the present application heard over Teams at 9am on 20 February 2024. Mr Barkhuizen appeared for Mr and Ms Magaiza on a watching brief.
3. On 16 October, 2023 I heard the main eviction application. I handed down a typed, signed judgment on the same day. My order evicted Ms Manzana, the respondent in the main application from the relevant residential property as from 30 November, 2023. This judgment is to be read with my judgment and order, both of which are uploaded to caselines.
4. On 7 February, 2024, I learned for the first time of the existence of an application for leave to appeal, despite the fact that the application for leave had been launched on 26 October, 2023. The lengthy delay in bringing to my attention applications for leave to appeal is an ongoing problem.
5. It is to be emphasised that Ms Manzana is an admitted attorney.

6. Ms Manzana raises twenty two grounds of appeal.
7. Ms Manzana submits now that because her counsel did not participate in the preparation of a joint practice note, the main hearing date should have been forfeited. There is no merit in this argument.
8. In short, Ms Manzana says that her request for a postponement of the hearing of the main application was wrongly refused. In my view, these grounds are without merit. A litigant, especially a litigant who is an admitted attorney, is not entitled to a postponement merely for the asking and merely on the ground that counsel is not available. To have acceded to a postponement in the circumstances would have been to deny the main applicants a hearing to which they had been long entitled.
9. I have read the transcript of the proceedings before me on 16 October, 2023. Ms Manzana was given ample opportunity to make her submissions.
10. Ms Manzana stressed to me on 16 October, 2023 that her lease was invalid. She naturally could not say why she was thus entitled to remain on the property. Ms Manzana was afforded six weeks to vacate, that is to 30 November, 2023. Nowhere in either of her two answering affidavits did she suggest that she would be homeless if evicted.
11. Ms Manzana raises a number of other legal points. These have been covered in my main judgment and it is not necessary to repeat them here.

12. In my view, Ms Manzana has no reasonable prospect of success on appeal nor is there any compelling reason for an appeal.

13. As Mr and Ms Magaiza abided my decision, there should be no order as to costs.

ORDER

1. The application for leave to appeal is dismissed.
2. No order as to costs.

GC Wright

Judge of the High Court

Gauteng Division, Johannesburg

HEARD : 20 February, 2024

DELIVERED : 20 February, 2024

APPEARANCES :

APPLICANT Ms Manzana, in person.

RESPONDENTS Mr Barkhuizen