



**IN THE HIGH COURT OF SOUTH AFRICA
(GAUTENG DIVISION, PRETORIA)**

Case Number: 71333/2018

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| (1) | REPORTABLE: NO |
| (2) | OF INTEREST TO OTHER JUDGES: NO |

In the matter between:

EMPIRE CROSSING DEVELOPMENT (PTY) LTD First
Applicant

TEXICAM INVESTMENTS (PTY) LTD Second
Applicant

and

THE MINISTER OF ENERGY First
Respondent

THE CONTROLLER OF PETROLEUM PRODUCTS Second
Respondent

TOM CAMPHER MOTORS Third
Respondent

JUDGMENT: LEAVE TO APPEAL

KUBUSHI J

[1] The Applicants seek leave to appeal the whole judgment and order of this Court dated 21 July 2022 and handed down electronically on the same date, refusing the relief they sought in the main application.

[2] The matter is to be determined on the papers without oral hearing. No new heads of argument were filed by the parties. In support of the application for leave to appeal, the First and Second Applicants (“the Applicants”) relied on their heads of argument previously filed, dated 4 March 2022, their supplementary heads of argument dated 6 May 2022, as well as the grounds of appeal stated in the application for leave to appeal. They furthermore, augmented their heads of argument in a letter dated 12 August 2022 addressed to the Court.

[3] The First and Second Respondents in opposing the application for leave to appeal, relied on the heads of argument filed during the hearing of the main application. As in the hearing of the main application, the Third and Fourth Respondents are not taking part in the current proceedings.

[4] Applications for leave to appeal are ordinarily brought in terms of section 17 (1) (a) (i) of the Superior Courts Act 10 of 2013. The subsection provides 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.

[5] The Applicants' grounds for leave to appeal are succinctly stated in the notice of application for leave to appeal, and need not be repeated in this judgment. The said grounds of appeal have been fully covered and considered in the judgment the Applicants seek to appeal.

[6] Having considered the grounds of appeal raised by the Applicants and the arguments for and against such application raised by the parties in their respective heads of argument, this Court is of the opinion that there are reasonable prospects of success on appeal.

[7] Consequently, the following order is made:

1. Leave to appeal the whole judgment and order of this Court dated 21 July 2022 to the Full Court of this Division, is granted to the First and Second Applicants.
2. Costs of this application are costs in the appeal.

E.M KUBUSHI
JUDGE OF THE HIGH COURT
GAUTENG DIVISION, PRETORIA

Delivered: This judgment was handed down electronically by circulation to the parties' legal representatives by e-mail. The date and time for hand-down is deemed to be 10h00 on 13 September 2022.

APPEARANCES:

APPLICANTS' ATTORNEYS: GERHARD WAGENAAR
ATTORNEY

APPLICANTS' COUNSEL: ADV S D WAGENER SC

FIRST & SECOND RESPONDENTS' ATTORNEYS: STATE
ATTORNEY

FIRST & SECOND RESPONDENT COUNSEL: ADV MMW VAN ZYL
SC

THIRD RESPONDENT'S ATTORNEYS: A KOCK & ASSOCIATES
INC

THIRD RESPONDENT'S COUNSEL ADV E VAN AS
SC