



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

**CASE NO: 36023/2021 &**

**36024/2021**

DELETE WHICHEVER IS NOT APPLICABLE

(1) REPORTABLE: NO.

(2) OF INTEREST TO OTHER JUDGES: NO

(3) REVISED.

DATE: 20 July 2022

SIGNATURE

In the matter between:

**ZIMELE INVESTMENT ENTERPRISE**

**COMPANY (PTY) LTD**

Applicant

and

**SOUTH AFRICAN NATIONAL ROADS AGENCY LTD**

First

Respondent

**TELEGENIX TRADING 799 (PTY) LTD**

Second Respondent

**SERVEST FACILITY SERVICES (PTY) LTD**

Third Respondent

**DNA CONSULTING ENGINEERS &**

**PROJECT MANAGERS**

Fourth Respondent

---

**J U D G M E N T**

**(In the applications for Leave to Appeal and to Cross-Appeal )**

---

*This matter has been heard by way of a virtual hearing and disposed of in the terms of the Directives of the Judge President of this Division. The judgment and order are accordingly published and distributed electronically.*

**DAVIS, J**

- [1] In this matter the originally cited third respondent (Telegenix) sought leave to appeal and the original applicant (Zimele) subsequently applied for leave to cross-appeal the judgment of this court dated 14 April 2022. The parties have convinced me that such leave should be granted and, after debate, I am of the view that leave to appeal and to cross-appeal should be granted to a full court of this division in terms of Section 17(6) (a) of the Superior Courts Act 10 of 2013.
- [2] SANRAL, who has otherwise abided the decision of this court, however opposed Zimele's application to cross-appeal the costs order granted in respect of the subsequent abandoned Part A of the main application. This was wherein Zimele initially sought an interdict in a somewhat belated urgent application. SANRAL was joined in argument by Telegenix to the effect that the costs order was correctly granted, was as a result of the exercise of this court's discretion and that such exercise was not properly or sufficiently attacked by Zimele in its notice of application for leave to cross-appeal. I have listened to argument on this topic and agree with Telegenix and SANRAL that the threshold for leave to appeal an exercise of a discretion had not been met and that there are no other compelling reasons why such leave should be granted.
- [3] Order in both 36023/2021 and 36024/2021:

1. The applications for leave to appeal and to cross-appeal the judgment and orders of this court of 14 April 2022, save for paragraph 6.1 of those orders, are granted.
2. Leave to appeal and to cross-appeal shall be to the full court of this division.
3. Costs of the applications for leave to appeal and to cross-appeal shall be costs in the appeals.

---

N DAVIS  
Judge of the High Court  
Gauteng Division, Pretoria

Date of Hearing: 19 July 2022

Judgment delivered: 20 July 2022

APPEARANCES:

Case no: 36023/2021

For the Applicant: Adv T D Prinsloo  
Attorney for the Applicant: Lowndes Dlamini Inc, Santon  
c/o Riaan Bosch Attorney, Pretoria

For the 1<sup>st</sup> Respondent: Adv S Scott  
Attorneys for the 1<sup>st</sup> Respondent: Goitseona Pilane Attorneys, Pretoria

For the 2<sup>nd</sup> Respondent: Adv M Collins SC  
Attorneys for the 2<sup>nd</sup> Respondent: Dukhi Attorneys, Durban  
c/o Wiese & Wiese Inc., Pretoria

Case no: 36024/2021

For the Applicant: Adv T D Prinsloo  
Attorney for the Applicant: Lowndes Dlamini Inc, Santon  
c/o Riaan Bosch Attorney, Pretoria

For the 1<sup>st</sup> Respondent: Adv S Scott  
Attorneys for the 1<sup>st</sup> Respondent: Dube N Attorneys, Johannesburg  
c/o Shabangu Attorney, Pretoria

For the 2<sup>nd</sup> Respondent: Adv M Collins SC  
Attorneys for the 2<sup>nd</sup> Respondent: Dukhi Attorneys, Durban  
c/o Wiese & Wiese Inc., Pretoria