

REPUBLIC OF SOUTH AFRICA



IN THE HIGH COURT OF SOUTH AFRICA

GAUTENG DIVISION, PRETORIA

CASE NO: 45960/2021

(1) REPORTABLE: YES/NO  
(2) OF INTEREST TO OTHER JUDGES: NO  
(3) REVISED: NO

Date: 24 July 2023 E van der  
Schvff

In the matter between:

QUANTUM FOODS (PTY) LTD

APPLICANT / OPPONENT

and

KEMELL INVESTMENTS (PTY) LTD

RESPONDENT / TRADE MARK  
APPLICANT

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JUDGMENT

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Van der Schvff J

**Introduction**

[1] This is an application for leave to appeal against the judgment and order handed down on 3 May 2023.

[2] It is by now, trite that s 17 of the Superior Courts Act 10 of 2013 raised the threshold for leave to appeal to be granted. If no compelling reason is found to exist as to why the appeal should be heard, an applicant must make out a case that the appeal would have a reasonable prospect of success.

[3] The Supreme Court of Appeal's expressed view is that leave to appeal should only be granted where there is a 'sound rational basis for the conclusion that there are prospects of success on appeal'.<sup>1</sup>

[4] After considering the grounds of appeal and the submissions made by counsel, I am not of the view that there is any reasonable prospect of success on appeal.

## ORDER

**In the result, the following order is granted:**

- 1. The application for leave to appeal is dismissed.**

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E van der Schyff  
Judge of the High Court

Delivered: This judgement is handed down electronically by uploading it to the electronic file of this matter on CaseLines. As a courtesy gesture, it will be emailed to the parties/their legal representatives.

For the applicant:	Adv. L. Van Dyk
Instructed by:	Werksmans Inc.
Date of the hearing:	19 July 2023
Date of judgment:	24 July 2023

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<sup>1</sup> *Four Wheel Drive Accessory Distributors CC v Rattan NO 2019 (3) 451 (SCA)* at par [34].