



**IN THE LAND CLAIMS COURT OF SOUTH AFRICA
HELD AT RANDBURG**

CASE NO: LCC107/2020

Before: The Honourable Acting Judge President Meer

Heard on: 03 December 2020

Delivered on: 07 December 2020

DELETE WHICHEVER IS NOT APPLICABLE

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

7/12/2020

DATE

P.P. 

SIGNATURE

In the matter between:

AMOS PHOPOLO MALOKA III

Appellant

and

BAKGATLA BA MMAKAU TRADITIONAL AUTHORITY

Respondent

APPLICATION FOR LEAVE TO APPEAL JUDGMENT

MEER AJP

[1] The Applicant applies for leave to appeal against the whole of my judgment of 2 October 2020. In so doing he seeks condonation for the late filing of his application. A full explanation has been furnished, the condonation application is not opposed and condonation is accordingly granted.

[2] The grounds upon which leave to appeal is sought traverse issues in respect of which reasoned findings are provided in the judgment. It would serve little purpose therefore to repeat these here. I however comment briefly on the sanction imposed.

[3] It has been said that civil contempt proceedings exist so that a court order stemming from civil proceedings may be brought to a logical conclusion by the imposition of a penalty to vindicate the court's authority (*Verkouteren v Savage* 1918 AD 143; *Naidu v Naidoo* 1993 (4) SA 542 (D) 544; *Food and Allied Workers Union v Sanrio Fruits CC* 1994 (2) SA 486 (T); *Ferreira v Bezuidenhout* 1970 (1) SA 551 (O); *Kotze v Kotze* 1953 (2) SA 184 (C); *Dezius v Dezius* 2006 (6) SA 395 (T); *Pheko and Others v Ekurhuleni City* 2015 (5) SA 600 (CC) at [28]). The imposition of a sanction is a mark of the court's displeasure and is in its discretion. In the exercise of my discretion I imposed the fine of R5000 after carefully considering all relevant circumstances which pertained in this matter where the Applicant had flagrantly flouted the court order. The Applicant has also been engaged in constant litigation in what may well be characterized as a vexatious manner.

[4] I have carefully considered all submissions and am of the view that another court would not have come to a finding different to mine. This being so, there are no reasonable

prospects of success on appeal. The application for leave to appeal thus stands to be dismissed.

[5] In keeping with this Court's practice not to award costs unless there are exceptional circumstances, of which I find none in this matter, no order as to costs shall be made.

[6] I order as follows:

The application for leave to appeal is dismissed.

p.p. N. S. Meer .

Y S MEER
Acting Judge President
Land Claims Court

APPEARENCES**For the Applicant:**

Mr. V Noko

Noko Ramaboya Attorneys Inc.

For the Respondent:

Mr. T Mokgara

Mokgara Attorneys