

SPECIAL TRIBUNAL OF SOUTH AFRICA
Judgment summary

<i>Caledon River Properties (Pty) Ltd t/a Magwa Constrution Profteam CC v Special Investigating Unit and Another</i>	
URL	https://lawlibrary.org.za/za/judgment/special-tribunal-south-africa/2022/40
Citations	(GP 17 of 2020) [2022] ZAST 40
Date of judgment	7 September 2022
Keyword(s): ¹	Appeal, application, high court, tribunal, right to appeal, automatic, unqualified, decisions, rulings, orders, powers
Case type ²	Application
Result	Application for leave to appeal dismissed with costs, and costs shall be costs in the appeal
Flynote ³	Court proceedings – appeal against Tribunal’s decisions – litigants have an automatic, unqualified right to appeal and is not required to apply to the Tribunal for leave to appeal
Legislation and International Instruments ⁴	<ul style="list-style-type: none"> ● Section 8(7) of the Special Investigating Units and Special Tribunals Act (SIU Act) ● Sections 16 and 17 of the Superior Courts Act
Cases cited as authority ⁵	<ul style="list-style-type: none"> ● Special Investigating Unit and Another v Msagala and Others (GP03 of 2020) ● Ledla Structural Development (Pty) Ltd and Others v Special Investigating Unit (GP07 2019) [2021] ZAST 32 ● Special Investigating Unit v Fikile Mpfofana (Pty) Ltd and Others (GP13/2021) [2022] ZAST 4
Facts ⁶	<p>The defendants applied for leave to appeal to the Full Court of the Gauteng Division against the Tribunal’s earlier judgement. The Tribunal raised the following questions <i>mero motu</i>, namely:</p> <ol style="list-style-type: none"> I. whether section 8(7) of the SIU Act and the regulations published in terms thereof provided for the right to appeal against the Tribunals’ decision on leave being granted by the Tribunal; and

¹ Clarify the type of issues that come up in the case.

² Whether Trial, Application or Appeal.

³ **Area of law** - topic – subtopic.

⁴ Legislation/ International instrument title and section numbers.

⁵ List of cases considered to be important precedent (case name and citation).

⁶ Brief facts about the case (max 150 words).

	<p>2. whether sections 16 and 17 of the Superior Courts Act were applicable to determine applications for leave to appeal in the Tribunal.</p> <p>The second defendant argued that section 16 of the Superior Courts Act qualified a litigant's right to appeal against the Tribunal's decision, and therefore required a party to obtain the Tribunal's leave to appeal against its decision.</p>
Summary ⁷	The Tribunal was asked to determine whether section 8(7) of the SIU Act provided parties with an automatic, unqualified right to appeal against the Tribunal's decisions to the Full Court of a Division of the High Court with jurisdiction, or whether it required the Tribunal's leave to appeal such decision as per the Superior Courts Act.
Decision/ Judgment ⁸	The Tribunal found that the first and second defendants' application for leave to appeal before the Tribunal was not proper and dismissed the application, and the costs of the application were ordered to the costs in the appeal.
Basis of the decision ⁹	The Tribunal held that the wording of section 8(7) of the SIU Act was clear and expressly provided a litigant with the right to appeal against a Tribunal's ruling, decision or order to a Division of the High Court with jurisdiction. It was an automatic right and unqualified. The Tribunal derived its powers from the SIU Act and not the Superior Courts Act, and therefore section 16 of the Superior Courts Act could not be used to qualify a litigant's right to appeal against the Tribunal's decision, orders and rulings.
Reported by Date	African Legal Information Institute (AfricanLII) 7 September 2022

⁷ Summary of the determination of legal questions and/or grounds of appeal (between 150-250 words).

⁸ A brief summary of the ruling/judgment of the court (max 100 words).

⁹ A 1-2 sentence summary of the basis of the decision (i.e. which legal rules were relied on).