



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

DELETE WHICHEVER IS NOT APPLICABLE

(1) REPORTABLE: ~~YES~~/NO

(2) OF INTEREST TO OTHER JUDGES: YES/NO

(3) REVISED

DATE: 02 September 2024

SIGNATURE:...

**Case No. 048287/2022**

In the matter between:

**LOURENS DP (PTY) LTD**

**PLAINTIFF**

And

**ENGELBRECHT, NICOLIEN N.O**

**1<sup>ST</sup> DEFENDANT**

**ENGELBRECHT, NICOLIEN**

**2<sup>ND</sup> DEFENDANT**

**VLEISSENTRAAL EINDOMME (PTY) LTD**

**3<sup>RD</sup> DEFENDANT**

**MEYER ATTORNEYS INCORPORATED**

**4<sup>TH</sup> DEFENDANT**

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**Coram:** Millar J

**Heard on:** 28 August 2024

**Delivered:** 02 September 2024 - This judgment was handed down electronically by circulation to the parties' representatives by email, by being uploaded to the *CaseLines* system of the GD and by release to SAFLII. The date and time for hand-down is deemed to be 10H00 on 02 September 2024.

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## ORDER

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**It is Ordered:**

- [1] The application for leave to appeal is refused with costs, which costs are to include the costs of counsel on scale C.

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## JUDGMENT

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**MILLAR J**

- [1] On 18 July 2024 I granted judgment in favour of the plaintiff against the third and fourth defendants as follows:

- [1.1] The third defendant is ordered to make payment to the plaintiff of the sum of R849 250,00 together with interest thereon *a tempore morae* from 18 July 2022 to date of payment, both days inclusive;
- [1.2] The fourth defendant is ordered to make payment to the plaintiff of the sum of R87 637,50 together with interest thereon *a tempore morae* from 18 July 2022 to date of payment, both days inclusive;
- [1.3] The third and fourth defendants, jointly and severally the one paying, the other to be absolved are ordered to pay the plaintiff's costs of suit which costs are to include the costs of counsel on scale C.
- [2] This is an application for leave to appeal against a judgment and order handed down on 28 June 2024.
- [3] For convenience I will refer to the parties as they were in the main application, save to note that it is the third and fourth defendants who seek leave to appeal and the plaintiff who opposes its grant.
- [4] The test for the granting of leave to appeal pertinent to the present matter is set out in section 17(1) of the Superior Courts Act<sup>1</sup> as follows:

“(1) *Leave to appeal may only be given where the judge or judges concerned are of the opinion that*

*(a) (i) the appeal would have a reasonable prospect of success or*

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<sup>1</sup> 10 of 2013.

*(ii) there is some other compelling reason why the appeal should be heard, including conflicting judgments on the matter under consideration”*

[5] I have considered the grounds upon which the application has been brought and the reasons given by me in the judgment for the order granted. The grounds are a repetition of what was argued and considered before me initially and there is no need to traverse this terrain again. I have also considered the submissions made by counsel for the granting of leave to appeal on the part of the defendants and those opposing the granting of leave to appeal on behalf of the plaintiff.

[6] I am not persuaded that another court would come to a different conclusion or that there is some other compelling reason why leave to appeal should be granted.

[7] The costs will follow the result.

[8] In the circumstances, I make the following order:

[8.1] The application for leave to appeal is refused with costs, which costs are to include the costs of counsel on scale C.

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**A MILLAR**  
**JUDGE OF THE HIGH COURT**  
**GAUTENG DIVISION, PRETORIA**

HEARD ON: 28 AUGUST 2024  
JUDGMENT DELIVERED ON: 02 SEPTEMBER 2024

COUNSEL FOR THE PLAINTIFF: ADV. J VAN DEN BERG SC  
INSTRUCTED BY: SEYMORE DU TOIT & BASSON  
REFERENCE: MR. M DAY

COUNSEL FOR THE 3<sup>RD</sup> & 4<sup>TH</sup> DEFENDANTS: ADV. L MALAN  
ADV. W DE BEER

INSTRUCTED FOR THE 3<sup>RD</sup> DEFENDANT BY: STEFAN SWART ATTORNEYS  
REFERENCE: MR. S SWART

INSTRUCTED FOR THE 4<sup>TH</sup> DEFENDANT BY: GUSTAV MEYER ATTORNEYS  
REFERENCE: MR. G MEYER

NO APPEARANCE FOR THE 1<sup>ST</sup> OR 2<sup>ND</sup> DEFENDANTS