




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

Case Number: 31884/2015

DELETE WHICHEVER IS NOT APPLICABLE	
(1)	REPORTABLE: YES/NO
(2)	OF INTEREST TO OTHER JUDGES: YES/NO
(3)	REVISED
DATE:	20/03/2019
SIGNATURE:	

In the matter between:

ARMOUR TECHNOLOGY SYSTEMS (PTY) LTD

First Applicant

JACOBUS STEPHANUS VAN HEERDEN

Second Applicant

and

DCD GROUP LIMITED (PTY) LTD

First Respondent

ANTONIE GILDENHUYS N.O.

Second Respondent

ARBITRATION FOUNDATION OF SOUTHERN AFRICA

Third Respondent

JUDGMENT

JANSE VAN NIEUWENHUIZEN J

[1] This is an application for leave to appeal the judgment and order granted by this court on 21 October 2016.

[2] At the inception of the hearing, I granted the following orders in terms of an application, incidental to application for leave to appeal, brought by the applicant:

1. The first applicant is granted the right to be represented by the second applicant.
2. The second applicant is granted the right to be assisted by a non-legal practitioner in the presentation of the applicants' case.
3. Condonation for the late filing of the application for leave to appeal.

[3] Mr van Heerden proceeded to address the court in respect of the grounds for leave to appeal and was, in each instance when he directed a request to liaise with his non-legal practitioner, granted an opportunity to do so.

[4] Mr van Heerden, during his address, confined the grounds upon which the application is brought to paragraph 4 of the application, which reads as follows:

"4. The Court has wrongfully set a precedent by its ruling that it is acceptable for a large profit pursuing company like the First Respondent represented by an expensive legal team in opposition of self-represented litigants, by circumstances and not by choice like the Appellants, to openly contradict their statements challenging that the First Appellant did not honour its obligations towards the arbitration proceedings and payment of fees while the First Appellant clearly produced evidence that it did, and afterwards be awarded with the granting of an order with costs."

[5] The ground of appeal is directed at paragraph [10] viii of the judgment in which I stated that the first application, notwithstanding receipt of invoices from AFSA in respect of its contribution to the arbitration fees, neglected to pay the amounts.

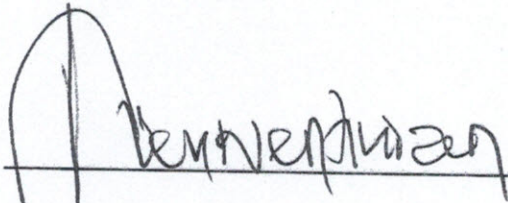
[6] Mr van Heerden is correct insofar as the statement may create the impression that the first applicant never paid any money towards the arbitration fees. In order to remove any uncertainty, it is recorded that the first applicant neglected to make the requested payments timeously, which resulted in the lapsing of the arbitration proceedings.

[7] In the result, the arbitration proceedings, in terms of the provisions of section 23(a) of the Arbitration Act, 42 of 1965, did lapse on 28 February 2015 and the application for leave to appeal has no prospect of success.

[8] Costs should follow the result.

ORDER

The application for leave to appeal is dismissed with costs.

A handwritten signature in black ink, appearing to read 'N. Janse van Nieuwenhuizen', is written over a horizontal line.

**N. JANSE VAN NIEUWENHUIZEN
JUDGE OF THE HIGH COURT OF SOUTH AFRICA
GAUTENG DIVISION, PRETORIA**

DATE HEARD

19 February 2019

JUDGMENT DELIVERED

20 March 2019

APPEARANCES

Appearance for the Applicants:

Mr J.S. Van Heerden (in person)

Assisted by Mr De Beer

Counsel for the Respondents:

Advocate W. Pocock

Instructed by:

DM Kisch Inc

(011 324 3000)

Ref: CM1026ZA00/KD