



**IN THE HIGH COURT OF SOUTH AFRICA
(WESTERN CAPE DIVISION, CAPE TOWN)**

Case No.: **2025-087994**

In the urgent application between:

DEMOCRATIC ALLIANCE

First Applicant

ANDREAS SINDYAMBA

Second Applicant

JOHAN VAN DER HOVEN

Third Applicant

AMELIA JOB

Fourth Applicant

and

MUNICIPAL MANAGER OF THE

MATZIKAMA LOCAL MUNICIPALITY

First Respondent

COUNCIL OF THE MATZIKAMA LOCAL MUNICIPALITY

Second Respondent

MATZIKAMA LOCAL MUNICIPALITY

Third Respondent

JOHAN MULLER

Fourth Respondent

MONICA BOTTUM

Fifth Respondent

XOLANI TSETU

Sixth Respondent

LEAVE TO APPEAL JUDGMENT: 18 August 2025

LE GRANGE J:

[1] This is an application for leave to appeal by the Third, Fourth, Fifth and Sixth Respondents (Respondents) against an ex-tempore judgment and order granted by me

on 27 June 2025, to the Full Bench of this Division, alternatively to the Supreme Court of Appeal.

[2] The main grounds of appeal advanced by the Respondents are the following: First, the interpretation and application of the Plascon- Evidence test¹ was erroneously applied; secondly; the minutes of the Second Respondent's council meeting were incorrectly admitted as evidence; and thirdly, the audio recording of the meeting was not properly verified and erroneously accepted as evidence.

[3] The criterion, which over many years had been adopted regarding the question of leave to appeal, has now obtained statutory force as contemplated by Section 17(1)(a) of the Superior Courts Act No. 10 of 2013. The test is ultimately whether (i) the contemplated appeal would have a reasonable prospect of success or (ii) there is some other compelling reason why the appeal should be heard, including conflicting judgments on the matter under consideration. It is only if a court is able to form a positive opinion on either or both of those propositions that this court is empowered to give leave to appeal.

[4] As to the first proposition, in the application for leave to appeal in Ramakatsa and Others v African National Congress and Another [2021] ZASCA 31 (31 March 2021), the

¹ Plascon-Evans Paints Ltd v Van Riebeeck Paints (Pty) Ltd 1984 (3) SA 623 (AD) at 634 H-I.

SCA held that '[t]he test of reasonable prospects of success postulates a dispassionate decision based on the facts and the law that a court of appeal could reasonably arrive at a conclusion different to that of the trial court. In other words, the appellants in this matter need to convince this Court on proper grounds that they have prospects of success on appeal. Those prospects of success must not be remote, but there must exist a reasonable chance of succeeding. A sound rational basis for the conclusion that there are prospects of success must be shown to exist'.

[5] In Caratco (Pty) Ltd v Independent Advisory (Pty) Ltd 2020 (5) SA 35 (SCA), in para 2, the SCA expressed itself as follows on the second proposition: '[a] *compelling reason includes an important question of law or a discreet issue of public importance that will have an effect on future disputes. But here too, the merits remain vitally important and are often decisive. [The applicant] must satisfy this court that it has met this threshold.* (See also Minister of Justice and Constitutional Development and Others v Southern African Litigation Centre and Others 2016 (3) SA 317 (SCA) at para 24.)

[6] I have carefully considered the notice of application for leave to appeal and the grounds of appeal listed therein where the Respondents contend that another Court will come to a different conclusion. Having heard the parties and having regard to the papers filed, I have not been persuaded that the Respondents have shown grounds that have prospects of success on appeal and that another Court would come to a different conclusion on the facts and the law in this instance.

[7] For all these reasons it follows the application for leave to appeal cannot succeed.

[8] In the result, I would make the following order:

Leave to Appeal is refused with costs on scale C.



LE GRANGE J