



THE SUPREME COURT OF APPEAL OF SOUTH AFRICA
MEDIA SUMMARY OF JUDGMENT DELIVERED IN THE SUPREME COURT OF
APPEAL

From: The Registrar, Supreme Court of Appeal

Date:

Status: Immediate

The following summary is for the benefit of the media in the reporting of this case and does not form part of the judgments of the Supreme Court of Appeal

Matamela v Mulaudzi (475/2021) [2022] ZASCA 71 (23 May 2022)

Today the Supreme Court of Appeal (SCA) struck an appeal from the Limpopo Division of the High Court, Thohoyandou (high court) from the roll.

The appeal originated from an order of the Thohoyandou Magistrate's Court. The matter had progressed to the high court on appeal and, subsequent to the order removing the matter from the roll, an application for leave to appeal was filed. The high court granted the application and granted leave to appeal to the SCA.

In the high court's judgment granting leave to appeal to this Court, it was recorded that a meeting between the Judge President of the high court and the judges of the high court revealed that allegations were levelled against a number of legal firms in the high court's jurisdiction. These allegations were that the judges of the high court were captured by these firms. One of the firms represented the litigant in the matter before the high court. The high court refused to hear the matter, hence the removal thereof. It reasoned, that the firm ought to rectify 'the capture' allegations before that firm's presence at the high court would be entertained. In granting the litigant leave to appeal to the SCA, the high court acknowledged that by refusing the litigant the right to be represented by an attorney of their own choice infringed on the litigant's right of access to the courts as set out in s 34 of the Constitution of the Republic of South Africa. Thus, in the interest of justice, leave to this Court was granted.

Prior to the hearing of this appeal, the Registrar of the SCA had written to the parties and inquired whether the matter was properly brought before this Court, as s 16(b) of the Superior Courts Act 10 of 2013 required that leave to appeal could only have been granted by this Court. The appellant contended that the SCA should exercise its ‘inherent jurisdiction’ and entertain the appeal in the interests of justice. However, the SCA did not have inherent jurisdiction to regulate its own proceedings and was circumscribed to perform its duties within the ambit of statute. This Court found that a high court which sat as an appeal court, lacked the authority to grant leave to this Court. The jurisdictional fact was that this Court required that special leave should have been sought by the litigant in order to have entertained such an appeal.

Accordingly, the high court lacked the jurisdictional power required to have granted leave to appeal to this Court, and the order was therefore a nullity. In the result the high court could not have granted the order and this Court did not have the jurisdiction to entertain the appeal.

In the result, the appeal was struck from the roll with costs.

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