



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: 18 March 2026

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

Hi-Q Automotive (Pty) Ltd v Erga Investments (Pty) Ltd and Another (935/2024) [2026] ZASCA 31 (18 March 2026)

Today, the Supreme Court of Appeal (SCA) dismissed, with no order as to costs, an appeal brought by Hi-Q Automotive (Pty) Ltd (the appellant) against a decision of the Gauteng Division of the High Court, Johannesburg (the high court). The appeal concerned the proper interpretation of s 17(2)(f) of the Superior Courts Act 10 of 2013 (the Act), read with s 18(1) of the Act. More particularly, at the heart of the dispute was the question whether there is any intersectionality between s 17(2)(f) and s 18(1) since the latter section does not refer to an application for reconsideration under the proviso to s 17(2)(f).

The initial dispute between the parties arose from eviction proceedings. The high court had ordered the cancellation of a sub-lease between the parties and directed the first respondent, Erga Investments (Pty) Ltd, to vacate the appellant's commercial premises. Dissatisfied with the cancellation of the sub-lease and the resultant eviction from the premises, the first respondent sought to appeal against its eviction. However, the first respondent's applications for leave to appeal were refused by both the high court and two judges of the SCA. Undeterred, the first respondent lodged an application for reconsideration with the President of the SCA in terms of the proviso to s 17(2)(f) of the Act. While that application was pending, the appellant proceeded to execute the eviction order. The first respondent then approached the high court on an urgent basis, seeking an interdict to restore its possession of the premises.

The high court, per Beyers AJ, granted the interdict. The learned Judge held that the pending reconsideration application fell within the scope of s 18(1) of the Act, which provides that the operation and execution of a decision that is the subject of an application for leave to appeal or of an appeal is suspended pending the outcome of that application or appeal. In reaching this conclusion, Beyers AJ followed the Gauteng Division's earlier decision in *Ekurhuleni Metropolitan Municipality v Business Connexion (Pty) Ltd and Others*. The appellant appealed against that decision to the SCA with the leave of the high court.

At the hearing of the appeal, the appellant accepted that the appeal was moot because the first respondent had vacated the premises following the expiry of the sub-lease. The SCA could well have dismissed the appeal in terms of s 16(2)(a)(i) of the Act on the ground that the decision

sought on appeal would have no practical effect or result. Notwithstanding this, the SCA decided, in the exercise of its discretion and in the interests of justice, to hear the appeal in order to settle the conflict between two discordant high court judgments and to provide guidance. For its part, the Gauteng Division in *Business Connexion* held that s 18(1) applies to reconsideration applications under the proviso to s 17(2)(f), while the KwaZulu-Natal Division in *MEC for Co-operative Governance and Traditional Affairs v Nquthu Municipality and Others* on the other hand held to the contrary.

On the substantive issue, the SCA held that the proviso to s 17(2)(f) is an integral part of the appeal process. The SCA reasoned that an application for reconsideration is, at its core, still aimed at securing leave to appeal against an unfavourable judgment similarly to applications for leave to appeal under paragraphs (a) and (b) of s 17(2) of the Act. In reaching this conclusion, the SCA invoked decisions of the Constitutional Court in which the latter court had repeatedly recognised this in *Liesching and Others v S and Another* and *Cloete and Another v S; Sekgala v Nedbank Limited*, where the s 17(2)(f) procedure was described as forming part of the appeal process.

The SCA accordingly determined that an application for reconsideration under the proviso to s 17(2)(f) by simple operation of the law suspends the operation and execution of a judgment which is the subject of such an application, as contemplated in s 18(1) of the Act. The SCA held that *Business Connexion* was correct and that *Nquthu Municipality* was wrong and, as a result, overruled it.

As a result, the appeal was dismissed with no order as to costs because the appellant had not asked for the costs of the appeal.

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