



THE SUPREME COURT OF APPEAL
REPUBLIC OF SOUTH AFRICA

MEDIA SUMMARY – JUDGMENT DELIVERED IN THE SUPREME COURT OF APPEAL

MEDIA SUMMARY – JUDGMENT DELIVERED IN THE SUPREME COURT OF APPEAL

From: The Registrar, Supreme Court of Appeal

Date: 1 December 2010

Status: Immediate

Please note that the media summary is intended for the benefit of the media and does not form part of the judgment of the Supreme Court of Appeal

MARGARETHA ALETTA RAS NO & OTHERS

V

NICOLENE VAN DER MEULEN & ANOTHER

The first respondent, Mrs Nicolene van der Meulen, instituted proceedings in the North Gauteng High Court for an order removing the appellants as trustees of a trust. When the matter came before court, the judge hearing the matter was first asked to rule on whether respondent was in fact a beneficiary of the trust as, if she was not, she was not entitled to seek the removal of the trustees.

While specifically recording that he made no finding in regard to whether the first respondent was a trust beneficiary, the judge concluded that she had sufficient interest in the matter to warrant her bringing the application. He then ordered the Master of the high court to carry out an investigation into the affairs of the trust's administration under s 16 of the Trust Property Control Act 57 of 1988, and postponed the application to enable that report to be filed before finally dealing with the matter.

The appellants appealed against this order. The respondent argued that the order was not appealable. The SCA today concluded that the matter was appealable. It also concluded that in order to be entitled to seek the trustees' removal, the first respondent had to be a beneficiary of the trust and that the court a quo had erred in concluding that without her being a beneficiary she was entitled to seek relief. Finally it concluded that the high court had erred in granting an order against the Master without it having being alleged that the Master had acted improperly in any way.

The order of the high court was therefore set aside and the matter remitted to the high court to hear evidence to determine whether the first respondent was a beneficiary of the trust.