



**IN THE LABOUR COURT OF SOUTH AFRICA, JOHANNESBURG**

Not Reportable

CASE NO: JS111/22

In the matter between:

**GENERAL INDUSTRIES WORKERS UNION**

**OF SOUTH AFRICA ("GIWUSA")**

**First Applicant**

**VUSIMUZI NKOSI & 10 OTHERS**

**Second Applicant**

And

**NKUNZI PHARMACEUTICALS (PTY) LTD**

**Respondent**

**Decided: In Chambers**

**Delivered: This judgment was handed down electronically by circulation to the Applicants' and Respondent's legal representatives by email, publication on the Labour Court website and release to SAFLII. The date and time for handing - down is deemed to be 15h00 on 19 January 2024.**

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## JUDGMENT: LEAVE TO APPEAL

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LALLIE, J

- [1] This is an application for leave to appeal against part of the judgment handed down by this court on 3 March 2023. The relevant part is the dismissal of the respondent's second point *in limine* that the first applicant lacked *locus standi* to represent the second applicant. The reason for the dismissal of the point was that Mr Andile Nyembezi, the first applicant's representative had been dismissed by the first applicant on 21 June 2021. The application is opposed by the applicants.
- [2] The application is mainly based on the submission that in reaching the impugned decision I erred in considering evidence that was not properly admitted into evidence. It was submitted that I further erred in not referring the matter to oral evidence when it was clear that there was a dispute of fact.
- [3] The relevant test is whether the applicant for leave to appeal has proved prospects of success on appeal<sup>1</sup>.
- [4] I have considered the submissions on behalf of both parties as well as the authorities they relied on. The validity of the respondent's submissions that I made the errors was unshaken. I am therefore satisfied that the respondent established prospects of success on appeal.

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<sup>1</sup> *Martin and East (Pty) Ltd v National Union of Mineworkers and others* (2014) 35 ILJ 2399 (LAC).

[5] In the premises, the following order is made:

1. The application for leave to appeal is granted.
2. Costs to be costs in the appeal.



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Z. Lallie

Judge of the Labour Court of South Africa

LABOUR COURT

For the Applicant: Bayi Attorneys

For the Respondents: Higgs Attorneys Inc

LABOUR COURT