

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

CASE NO: 1277/2009

DATE: 17 FEBRUARY 2009

5 In the matter between:

GOLDEN ARROW BUS SERVICES

(PTY) LIMITED

APPLICANT

versus

MINISTER OF TRANSPORT FOR RSA 1ST RESPONDENT

10 MINISTER OF FINANCE FOR RSA 2ND RESPONDENT

GOVERNMENT OF RSA 3RD RESPONDENT

MEC FOR THE DEPARTMENT OF

PUBLIC TRANSPORT, ROADS AND

WORKS FOR WESTERN CAPE 4TH RESPONDENT

15

JUDGMENT

BINNS-WARD, A J:

20

In this matter, on 30 January, I gave judgment in an amount sounding in money in favour of Golden Arrow Bus Services and declared that the second respondent, in his capacity as the functionary politically responsible for the Treasury, was not prohibited by the provisions of either section 213(2) of the

25

jp

L...

Constitution or section 15(1)(a) of the Public Finance Management Act 1/1999 from effecting immediate payment of the judgment debt arising from the judgment sounding in money from the National Revenue Fund, upon the request of the applicant and/or the first respondent (who was the Minister of Transport).

In arriving at that conclusion, I based my views on a reading of the Constitution which led me to conclude that it was an implied provision of the Constitution - having regard to the affected fundamental human rights in the Bill of Rights, section 165 and section 213 - that judgment debts sounding in money against the State were a "direct charge" on the National Revenue Fund.

15

The second respondent in the principal proceedings applies for leave to appeal against that part of my judgment.

In my opinion it is readily conceivable that another Court might come to a different view and therefore it is appropriate to grant leave to appeal against paragraphs 4, 5 and 6 of the orders made in paragraph 33 of my judgment. Notwithstanding that the judgment debt in question has - so I have been advised - since been paid, the issue which is sought to be challenged, or which is sought to be prosecuted on appeal is of general

25

jp

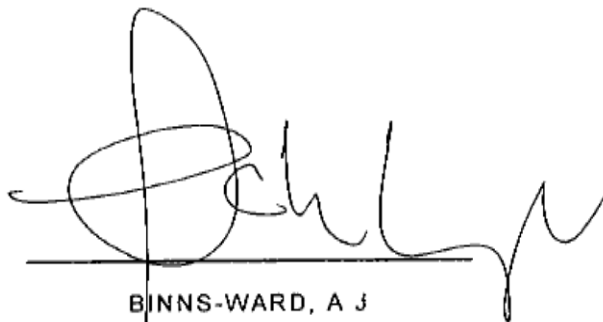
/...

interest and substantial everyday practical importance. In the circumstances it is appropriate that the appeal be heard by the Supreme Court of Appeal.

5 The following order is therefore made:

1. Leave to appeal against paragraphs 4, 5 and 6 of the orders made in paragraph 33 of the principal judgment is granted;
2. The appeal shall lie to the Supreme Court of Appeal;
10 and
3. The costs of this application shall be costs in the appeal.

15



20
BINNS-WARD, A J