

IN THE SUPREME COURT OF APPEAL

CASE NO: D4772/23

SCA CASE NUMBER: _____

In the matter between:

TONGAAT HULETT LIMITED (IN BUSINESS RESCUE)	First Applicant
TONGAAT HULETT SUGAR SOUTH AFRICA (PROPRIETARY) LIMITED (IN BUSINESS RESCUE)	Second Applicant
TREVOR JOHN MURGATROYD N.O.	Third Applicant
PETRUS FRANCOIS VAN DEN STEEN N.O.	Fourth Applicant
GERHARD CONRAD ALBERTYN N.O.	Fifth Applicant
and	
SOUTH AFRICAN SUGAR ASSOCIATION	First Respondent
S.A. SUGAR EXPORT CORPORATION (PROPRIETARY) LIMITED	Second Respondent
MINISTER OF TRADE, INDUSTRY AND COMPETITION	Third Respondent
SOUTH AFRICAN SUGAR MILLERS' ASSOCIATION NPC	Fourth Respondent
SOUTH AFRICAN CANE GROWERS' ASSOCIATION NPC	Fifth Respondent
SOUTH AFRICAN FARMERS' DEVELOPMENT ASSOCIATION NPC	Sixth Respondent
RCL FOODS SUGAR & MILLING (PROPRIETARY) LIMITED	Seventh Respondent
ILLOVO SUGAR (SOUTH AFRICA) (PROPRIETARY) LIMITED	Eighth Respondent
UMFOLOZI SUGAR MILL (PROPRIETARY) LIMITED	Ninth Respondent

GLEDHOW SUGAR COMPANY (PROPRIETARY) LIMITED	Tenth Respondent
HARRY SIDNEY SPAIN N.O.	Eleventh Respondent
UCL COMPANY (PROPRIETARY) LIMITED (PROPRIETARY) LIMITED	Twelfth Respondent
ALL REGISTERED GROWERS	Thirteenth to Twenty-Three Thousandth Respondents
THE AFFECTED PERSONS IN THL'S BUSINESS RESCUE	Twenty-Three Thousand and First Respondents and Further Respondents

NOTICE OF APPLICATION FOR LEAVE TO APPEAL

TAKE NOTICE THAT the applicants hereby apply to the above Honourable Court for an order in the following terms -

- 1 That leave to appeal be granted to the applicants to appeal the whole of the judgment and order, including as to costs, granted by Vahed J in the KwaZulu-Natal Division of the High Court, Durban on 4 December 2023.
- 2 That the costs of this application for leave to appeal be costs in the appeal.
- 3 That further and/or alternative relief be granted.

TAKE FURTHER NOTICE THAT the accompanying affidavit of **TREVOR JOHN MURGATROYD** will be used in support of this application.

TAKE NOTICE FURTHER THAT any affidavit in answer to this application for leave to appeal must be lodged within one month after the date of service of this application, with the Registrar of the Supreme Court of Appeal.

DATED AND SIGNED AT JOHANNESBURG ON 3 JUNE 2024.



WERKSMANS ATTORNEYS

Applicants' Attorneys

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11th Floor, The Central

96 Rivonia Road, Sandton

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Tel: +27 11 535 8459 / +27 11 535 8131

Ref: Mr T Boswell / Ms S Gast / **TONG7430.11**

C/O MICHAEL DU PLESSIS ATTORNEYS

4B Louw Wepener Street | Dan Pienaar

Bloemfontein

Tel: 051 492 5775

Email: michael@mdplaw.co.za

Ref: Mr M du Plessis

TO:

**THE REGISTRAR OF THE
ABOVE HONOURABLE COURT
BLOEMFONTEIN**

**THE REGISTRAR OF THE
HIGH COURT OF SOUTH AFRICA
KWAZULU-NATAL DIVISION, DURBAN**

AND TO:

SOUTH AFRICAN SUGAR ASSOCIATION

First Respondent

C/O GARLICKE & BOUSFIELD

7 Torsvale Crescent

La Lucia Ridge Office Estate. La Lucia

Email: howard.stephenson@gb.co.za

**Service in terms of
Uniform Rule 4A(1)(c)**

AND TO:

**S.A. SUGAR EXPORT CORPORATION
(PROPRIETARY) LIMITED**

Second Respondent

C/O GARLICKE & BOUSFIELD

7 Torsvale Crescent

La Lucia Ridge Office Estate. La Lucia

Email: howard.stephenson@gb.co.za

**Service in terms of
Uniform Rule 4A(1)(c)**

AND TO:

**MINISTER OF TRADE AND INDUSTRY
C/O THE STATE ATTORNEY (KWAZULU-NATAL)**

Third Respondent

Email: thmaphumulo@justice.gov.za

KMalatji@thedtic.gov.za

**Service in terms of
Uniform Rule 4A(1)(c)**

AND TO:

**SOUTH AFRICAN SUGAR MILLERS'
ASSOCIATION NPC**

c/o GARLICKE & BOUSFIELD INC

Fourth Respondent's Attorneys

7 Torsvale Crescent

La Lucia Ridge Office Estate. La Lucia

Tel: +27 31 570 5483

Email: andre.liebenberg@gb.co.za

**Service in terms of
Uniform Rule 4A(1)(c)**

AND TO:

**SOUTH AFRICAN CANE GROWERS'
ASSOCIATION NPC**

Fifth Respondent

170 Flanders Drive, Mount Edgecombe, 4300

Tel: +27 31 508 7200

Email: central@canegrowers.co.za

thomas.funke@sacanegrowers.co.za

**Service via email
as per agreement
between the parties**

AND TO:

**SOUTH AFRICAN FARMERS'
DEVELOPMENT ASSOCIATION NPC**

Sixth Respondent

170 Flanders Drive, Mount Edgecombe, 4300

Tel: +27 31 508 7283

Email: info@sa-fda.org.za

tsibiya@sa-fda.org.za

**Service via email
as per agreement
between the parties**

AND TO:
**RCL FOODS SUGAR & MILLING
 (PROPRIETARY) LIMITED**
C/O WEBBER WENTZEL ATTORNEYS
 Seventh Respondent
 Email: prelisha.singh@webberwentzel.com /
lara.kahn@webberwentzel.com /
lubumba.kamukwamba@webberwentzel.com

**Service in terms of
 Uniform Rule 4A(1)(c)**

AND TO:
**ILLOVO SUGAR (SOUTH AFRICA)
 (PROPRIETARY) LIMITED**
C/O COX YEATS ATTORNEYS
 Eighth Respondent
 45 Vuna Close, Umhlanga Ridge, 4319
 Email: TScheepers@coxyeats.co.za
LMapiki@coxyeats.co.za
JRodd@coxyeats.co.za

**Service in terms of
 Uniform Rule 4A(1)(c)**

AND TO:
UMFOLOZI SUGAR MILL (PROPRIETARY) LIMITED
 Ninth Respondent
C/O COX YEATS ATTORNEYS
 45 Vuna Close, Umhlanga Ridge, 4319
 Email: mjackson@coxyeats.co.za

**Service in terms of
 Uniform Rule 4A(1)(c)**

AND TO:
**GLEDHOW SUGAR COMPANY
 (PROPRIETARY) LIMITED**
 Tenth Respondent
 1 Gledhow Mill Road, Kwa-Dukuza, Kwa-Dukuza
 Kwa-Zulu Natal, 4450
 Email: hspainbrp@gledhow.co.za

**Service via email
 as per agreement
 between the parties**

AND TO:
HARRY SIDNEY SPAIN N.O
 Eleventh Respondent
 Unit 2 Hertford, 747 Musgrave Road, Durban
 Email: hspainbrp@gledhow.co.za

**Service via email
 as per agreement
 between the parties**

AND TO:
**UCL COMPANY (PROPRIETARY) LIMITED
(PROPRIETARY) LIMITED**
Twelfth Respondent
16 Noodsberg Road, Dalton, KwaZulu-Natal
Email:lutger@ucl.co.za

**Service via email
as per agreement
between the parties**

AND TO:
**ALL REGISTERED GROWERS
Thirteenth to Twenty-Three
Thousandth Respondents**

Substituted Service

AND TO:
**THE AFFECTED PERSONS IN
THL'S BUSINESS RESCUE
Twenty-Three Thousand and First
Respondents and Further Respondents**

Substituted Service