



CONSTITUTIONAL COURT OF SOUTH AFRICA

Sizwe Lindelo Snail ka Mtuze v Bytes Technology Group South Africa (Pty) Ltd and Others

Case CCT 53/13

Date of Judgment: 12 September 2013

MEDIA SUMMARY

The following explanatory note is provided to assist the media in reporting this case and is not binding on the Constitutional Court or any member of the Court.

On 12 September 2013 the Constitutional Court handed down a judgment refusing leave to appeal with costs.

The applicant, Mr Sizwe Snail, is an attorney who represented Mr Michael, the fourth respondent, in proceedings in the North Gauteng High Court. His conduct in the High Court led the Court to make a punitive costs order against him. The High Court and in the Supreme Court of Appeal refused leave to appeal. The applicant then sought leave to appeal from the Constitutional Court, which dismissed the application because there were no prospects of success. Following this, Mr Snail launched an application in the Constitutional Court “for reconsideration” of its previous order.

The Constitutional Court held that, in terms of the common law, once a court has made a final decision in a matter it has no power afterwards to reconsider its decision except under grounds of rescission or variation of judgments. In bringing this matter for “reconsideration” the applicant elected not to cast it as a rescission application. However, even if he had brought a rescission application, the Court held that he would not have succeeded, because the facts of this case did not show that the judgment had been incorrectly granted. The Court concluded that, even if there were a power in terms of the common law to vary orders, this would only be possible in exceptional circumstances. Mr Snail did not show the existence of any exceptional circumstances.

Accordingly, the application was dismissed with costs.