

IN THE COURT OF APPEAL OF BOTSWANA
HELD AT LOBATSE

Court of Appeal Civil Appeal No. 45/2002
High Court Misca No. 583/2001

In the matter between:

ELFGAS SOUTHERN AFRICA LIMITED

Appellant

and

PROGAS BOTSWANA (PTY) LTD

Respondent

Mr G.F. Omotoye for the Appellant

Mr Griffiths for the Respondent

J U D G M E N T

CORAM: KORSAH J.A
ZIETSMAN J.A
AKIWUMI J.A

KORSAH J.A;

In this matter the appellant seeks postponement of the appeal to the January 2004 session.

The appellant has failed to provide security for the agreed costs. No heads of argument have been filed by the appellant and no grounds have been advanced as to why the appeal should be postponed.

Mr Griffiths on behalf of the respondent has submitted that in the circumstances the application for the postponement should be refused and that the appeal be dismissed with costs.

As a further ground we note that the appeal was against an interlocutory order. No leave was sought from the court a quo in terms of section 11 of the Court of Appeal Act [Cap 04:01] and as such the appeal is not properly before us.

We agree with the submission made by Mr Griffiths.

The order we make is that the application for postponement is refused and the appeal against the order made by Nganunu CJ on the 4 November 2002 is dismissed with costs, especially as no leave to appeal was sought therefrom from the court a quo.

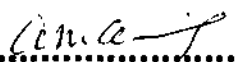
DELIVERED IN OPEN COURT THIS 14TH DAY OF JULY 2003


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K.R.A KORSAH
JUDGE OF APPEAL

I agree


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N.W. ZIETSMAN
JUDGE OF APPEAL

I agree


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A.M. AKIWUMI
JUDGE OF APPEAL