



**IN THE HIGH COURT OF SOUTH AFRICA
(GAUTENG LOCAL DIVISION, JOHANNESBURG)**

- (1) REPORTABLE: NO
(2) OF INTEREST TO OTHER JUDGES: NO
(3) REVISED.

SIGNATURE

DATE: 8 March 2023

Case No. 00052/2023

In the matter between:

JEROME BADENHORST

First Applicant

**THE UNLAWFUL OCCUPIERS OF THE IMMOVABLE
PROPERTIES AT PORTION 102, HOLGATFONTEIN 36
IR NIGEL, also known as MACKENZIEVILLE EXTENSION**

Second &
Further Applicants

and

CITY OF EKURHULENI METROPOLITAN MUNICIPALITY

First Respondent

THE SHERIFF OF THE HIGH COURT, NIGEL

Second Respondent

THE SOUTH AFRICAN POLICE SERVICES, NIGEL

Third Respondent

**CITY OF EKURHULENI METROPOLITAN POLICE
DEPARTMENT**

Fourth Respondent

JUDGMENT

WILSON J:

- 1 Earlier today, I handed down a judgment explaining my reasons for making an order declaring that the first, third and fourth respondents' execution of an

eviction order in the absence of the second respondent, the Sheriff, on 28 February 2023, was unlawful. The judgment was handed down in response to an application for leave to appeal brought by the first respondent, Ekurhuleni Municipality, against that declaratory order, and a request that I provide my reasons for making it.

- 2 During the course of that judgment, I pointed out, as an aside, that Ekurhuleni Municipality had not applied for leave to appeal against a further order I made, ancillary to the declaratory order, that those of the applicants evicted be restored to possession of the properties from which they were removed.
- 3 The observation appears to have provoked a further application for leave to appeal against that aspect of the order, for which I have now been asked to provide a second set of reasons.
- 4 To the extent that Ekurhuleni Municipality's legal representatives could have been in any doubt, I confirm that my reasons for ordering that the applicants be restored to the properties from which they were evicted are the same as my reasons for declaring the eviction to have been unlawful. As I said in my main judgment, the purported execution of the eviction order was "no more than a spoliation. I treated it as such".



S D J WILSON
Judge of the High Court

HEARD ON:

3 March 2023

DECIDED ON:

8 March 2023

For the Applicants:

D Brown

Instructed by Chris Billings Attorneys

For the First Respondent:

E Sithole

Instructed by Lebea Inc Attorneys