

Reportable:	YES / <u>NO</u>
Circulate to Judges:	<u>YES</u> / NO
Circulate to Magistrates:	YES / <u>NO</u>
Circulate to Regional Magistrates:	YES / <u>NO</u>

**IN THE HIGH COURT OF SOUTH AFRICA
(NORTHERN CAPE DIVISION, KIMBERLEY)**

Case No: **702/2015**
Date heard: **18/09/2015**
Date delivered: **09/10/2015**

In the matter between:

SOL PLAATJE LOCAL MUNICIPALITY

Applicant

and

ECONOMIC FREEDOM FIGHTERS

1st Respondent

GEORGE NYAKAMA

2nd Respondent

AUBREY BAARTMAN

3rd Respondent

**UNIDENTIFIED MEMBERS AND/OR NON-MEMBERS
OF THE FIRST RESPONDENT TAKING PART IN THE
UNLAWFUL CONDUCT OF THE FIRST RESPONDENT**

4th Respondent

***Coram:* Olivier J**

JUDGMENT

Olivier J:

[1]. This application served before me on the extended return date of a rule *nisi* issued on 13 April 2015 after the applicant, the Sol Plaatje

Municipality, had approached the Court on an urgent basis. After hearing argument I reserved judgment and extended the rule *nisi*.

- [2]. The first respondent is the Economic Freedom Fighters, described in the founding affidavit as a voluntary association with legal personality and registered as a political party. The second respondent, Mr George Nyakama, and the third respondent, Mr Aubrey Baartman, were cited in their respective capacities as the provincial secretary and the provincial chairperson of the first respondent.
- [3]. The fourth respondent was simply cited as members and non-members of the first respondent who were taking part, or were intending to take part, in the first respondent's proposed "*land grab*" or land invasion.
- [4]. Notice of the application was given to the first three respondents little more than hour before the application was brought. They did not appear and the rule *nisi* was granted, interdicting the first to fourth respondents from:
 - 4.1) trespassing in contravention of section 1 of the **Trespass Act**¹ and/or enticing and/or in any way whatsoever influencing members of the public to commit such an offence;
 - 4.2) holding any demonstration and/or gathering, for a period of 12 (twelve) months of the date of the order, without giving

¹ 6 of 1959

the required notice in terms of the **Regulation of Gatherings Act**²;

- 4.3) providing any kind of unlawful permission to and/or enticing and/or in any way whatsoever influencing members of the public to invade and/or occupy any of the immovable properties of the applicant situated within the boundaries of the Sol Plaatje municipal district;
 - 4.4) taking occupation of and/or erecting structures on any of the immovable property of the applicant situated in the Sol Plaatje municipal district; and
 - 4.5) damaging and/or destroying any of the applicant's property situated in the Sol Plaatje municipal district.
- [5]. The rule *nisi* also directed the South African Police Service to take all reasonable and necessary steps to give effect to the orders, and it called upon the respondents to show cause why these orders should not be confirmed.
- [6]. On the return date the application was opposed by the first, second and third respondents.
- [7]. On 14 April 2015 a notice of intention to amend the notice of motion to include a prayer to the effect that the first, second and third respondents pay the costs of the application jointly and severally, the one to pay the other to be absolved, was served on

² 205 of 1993

the respondents. It afforded the respondents the usual 10 (ten) days within which to object to the amendment. No objection was ever filed.

- [8]. Mr Khokho, counsel for the opposing respondents, took the point that the applicant had not then effected its amendment in terms of Uniform Rule 28(7) and that the Court should therefore disregard the prayer for costs.
- [9]. This is a technical and somewhat obstructive argument which really does not take the matter further at all. The applicant had in any event, through its notice of amendment, made it abundantly clear that it was going to be its case that the particular respondents pay its legal costs. The first to third respondents could therefore not be prejudiced by such a request at that stage.
- [10]. The absence of such a prayer in the notice of motion or in the *rule nisi* could in those circumstances never, as suggested by Mr Khokho, have been a bar to the making of a costs order against the first to third respondents³. No amendment was therefore really required.
- [11]. Uniform Rule 28(10) would in any event have empowered the Court to grant an amendment at any stage before judgment. Mr Khokho, when confronted with these provisions, made the strange submission that they only apply where a proposed amendment has been objected to and is then allowed. He suggested that this is in fact the plain meaning of those provisions, and he furthermore

³ Compare **Naidoo and Another v Matlala NO and Others** 2012 (1) SA 143 (GNP) para [15]; **Clifford Harris (Pty) Ltd v SGB Building Equipment (Pty) Ltd** 1980 (2) SA 141 (T) and **Van Heerden v Bezuidenhout** 2014 JDR 0668 (GNP) para [25].

referred me to what Lacock J had according to him held in the matter of **Mier Municipality v Amadwala Trading 380 CC**⁴.

- [12]. In my view the provisions of Rule 28(10) cannot, even by the wildest stretch of the imagination, be interpreted in the way proposed by Mr Khokho. They are couched *“in the widest possible terms and (do) not envisage any period before judgment during which the possibility of making an application for amendment is precluded”*⁵.
- [13]. A perusal of the file contents in the matter referred to by Mr Khokho revealed that the order granting leave to amend had been granted by agreement. The file contains no judgment by Lacock J and there is no indication of him having made any finding regarding the applicability of sub-rule (10). It was irresponsible of Mr Khokho to quite clearly be unprepared to debate these provisions, and even more so to misquote Lacock J.
- [14]. Mr Khokho furthermore in argument raised the preliminary point that, because the deponent for the applicant had not furnished a resolution to that effect, he had failed to show that he was authorised to bring the application on behalf of the applicant. This point too is without any merit whatsoever.
- [15]. The deponent, Mr G H Akharwaray, is the Municipal Manager of the applicant. In his founding affidavit he stated that he was *“duly authorised to launch these proceedings on the Applicant’s behalf and to depose to this affidavit”*. This statement would, even in the

⁴ Case number 639/2015 in this Division.

⁵ See **Myers v Abrahamson** 1951 (3) SA 438 (C) at 445, where the similarly worded predecessor of sub-rule (10) was considered.

face of a bare denial by the respondents, have sufficed and it would certainly not have been necessary to append a resolution in such circumstances⁶.

[16]. Here, however, there is not even a bare denial of Mr Akharwaray's statement in the answering affidavit. To the contrary, the second respondent's answer to Mr Akharwaray's averment that he had been duly authorised, was simply that he "*noted*" the averment and that he took "*no issue thereto*" (*sic*). Quite astonishingly Mr Khokho argued that this did not amount to an admission of Mr Akharwaray's averment⁷.

[17]. It has in any event been held that what Mr Khokho is trying to do here, and the manner in which he is approaching the issue of authority, is not the proper way of doing it, and that it should be done by means the procedure in Uniform Rule 7⁸.

[18]. As a further preliminary point Mr Khokho argued that the matter had not been urgent, and that insofar as any urgency may have existed, it had been self-created. Once again Mr Khokho's argument is devoid of any merit.

[19]. Mr Akharwaray stated in his founding affidavit that the first respondent had in the week before the launching of this application planned, encouraged and conducted various land invasions in other towns and districts. Mr Akharwaray referred to news articles to this

⁶ Compare **Msunduzi Municipality v Natal Joint Municipal Pension/Provident Fund and Others** 2007 (1) SA 142 (N); **South West Africa National Union v Tjozongoro and Others** 1985 (1) SA 376 (SWA) at 381D – E.

⁷ Compare **Sifris & Miller, NNO v Vermeulen Bros** 1973 (1) SA 729 (T) at 730 E-F

⁸ Compare **Ganes and Another v Telecom Namibia Ltd** 2004 (3) SA 615 (SCA) paras [18] and [19]; **Unlawful Occupiers School Site v City of Johannesburg** 2005 (4) SA 199 (SCA) at 205J – 207G.

effect downloaded from the News24 website, dated 7 and 8 April 2015, regarding a land invasion that had been executed, and apparently led by top-ranking officials of the first respondent, in Khayelitsha, Cape Town.

- [20]. Mr Akharwaray went on to say that on Thursday 9 April 2015 he had become aware of the contents of the front page and of an article on the second page of the Diamond Fields Advertiser, a local newspaper. On the front page it had been reported that the first respondent had promised so-called “*fireworks*” for Kimberley for the next week, in other words for the week from Monday 13 April 2015.
- [21]. In the article on page 2 of the newspaper the author, identified there as Murray Swart, *inter alia* quoted the second respondent as saying that the first respondent had “*every intention of following the example set by their Western Cape counterparts by beginning the physical occupation of under-utilised land in the city from next week*”, that “*his party and its supporters would be moving into suburban areas of Kimberley and other earmarked areas, from next week*”, that “*Kimberley can really expect fireworks next week*” and that “*We aren’t going to say exactly when our action will begin because we don’t want to alert any resistance before we need to...*”.
- [22]. A consultation with counsel was immediately arranged. It took place on Friday 10 April 2015. The papers were settled over the weekend and the application was brought on Monday 13 April 2015.

- [23]. The application was, on these allegations (and obviously subject to their admissibility, an issue to which I will revert), quite clearly extremely urgent. I fail to see any sign of the applicant having itself created such urgency. Such a case was certainly not made out by the second respondent, who deposed to the answering affidavit, also on behalf of the first and third respondents, and Mr Khokho did not point to any evidence which could substantiate this submission of his.
- [24]. In any event, condonation was granted when the rule *nisi* was applied for, the week in which fireworks were to take place has come and gone and the issue of urgency has really been overtaken by events.
- [25]. The same really applies to Mr Khokho's further argument, with reference to **Gallagher v Norman's Transport Lines (Pty) Ltd**⁹, that the applicant's notice of motion should have been in the long form (Form 2(a)). Mr Khokho was in any event not able to point out any prejudice suffered because of the fact that the short form was used. The application was sufficiently urgent and the threat imminent enough to justify the short notice and the use of the short form. To have given longer notice would have been to play into the hands of the second respondent, who had made it clear that the intention was to catch landowners like the applicant by surprise. Not only did Rule 6 (12) empower the Court, when initially considering the application, to dispense with this requirement, but in any event "*the rules are there for the Court, and not the Court for the rules*"¹⁰.

⁹ 1992 (3) SA 500 (W)

¹⁰ **Anglo Operations Ltd v Sandhurst Estates (Pty) Ltd** 2007 (2) SA 363 (SCA) para [32]

- [26]. The next issue raised by Mr Khokho was the fact that the applicant had in its founding affidavit relied on hearsay evidence in the form of especially the extracts from the Diamond Fields Advertiser. Mr Khokho, with reference to the case of **The Master v Slomowitz**¹¹, made the point that in order to rely on hearsay evidence in an affidavit it is incumbent upon a deponent to declare that he or she believes the statement to be true and to disclose the reasons for that belief, as well as the source of the information. This is also the effect of cases like **Southern Pride Foods (Pty) Ltd v Mohidien**¹² and **Lehane NO v Lagoon Beach Hotel (Pty) Ltd and Others**¹³.
- [27]. In **Syfrets Mortgage Nominees Ltd v Cape St Francis Hotels (Pty) Ltd**¹⁴ it was confirmed¹⁵ that hearsay statements will be admitted *“where the Court is satisfied that it is necessary to do so because of the urgency of the matter; or for the purpose of preventing an injury or threatened invasion of rights; or where some other special circumstances appear to justify it doing so”*.
- [28]. In his founding affidavit Mr Akharwaray made it clear that, in view of the urgency of this matter, it had not at that stage been possible to obtain affidavits from the authors of the different articles. This was never pertinently denied by or on behalf of any of the respondents. They would have been hard-pressed to do so, given the fact that the first of those articles had been published on 7 April

¹¹ 1961 (1) SA 669 (T)

¹² 1982 (3) SA 1068 (C) at 1071D – 1072C

¹³ 2015 (4) SA 72 (WCC) para [35]

¹⁴ 1991 (3) SA 276 (SE)

¹⁵ **Ibid**, at 284J to 285E

2015, only days before the week in which “*fireworks*” were promised.

- [29]. Mr Khokho was wrong in his submissions that Mr Akharwaray failed to declare that he believed the statements to be true and to disclose the source of the information.
- [30]. Mr Akharwaray right from the outset pertinently stated that, insofar as the contents of his founding affidavit did not fall within his personal knowledge, he believed those averments to be true and correct in all respects.
- [31]. Even if he had not done so, it would have been clear that he in fact had all the reason in the world to believe the contents of the Diamond Fields Advertiser to be true, because the publication of those contents took place against the background and in the context of a week in which the first respondent’s members and officials had elsewhere also threatened and in fact carried out so-called land grabs or invasion of land.
- [32]. The applicant did not need to rely on the truth of the contents of the News24 articles, merely on the fact that those contents had been published. That in itself would have been sufficient to cause apprehension of the part of the applicant, which would then have been substantiated by the contents of the Diamond Fields Advertiser.
- [33]. The source of the information was in fact also disclosed, because as already indicated the name of the author of the article in the

particular edition of the Diamond Fields Advertiser, Mr Murray Swart, appeared at the top of that article. Once the papers had been served on them the respondents therefore had the opportunity to verify the information with Mr Swart.

[34]. This they never did. Instead, the second respondent in his answering affidavit simply stated that he had been quoted “*out of context*”. He did not deny the use of the particular words and he failed to explain in what context they were uttered according to him.

[35]. When regard is had to the factors enumerated in section 3(1)(c) of **Law of Evidence Amendment Act**¹⁶ there is in my view no merit in Mr Khokho’s submission that the hearsay evidence should not have been admitted or taken into account. The proceedings were, as already found, urgent. At stake were the applicant’s rights as an owner of land, and also the safety and well-being of anyone who would be enticed or influenced to trespass, occupy or erect dwellings. The evidence was tendered to show that there was a reasonable apprehension on the part of the applicant. It had no other way of proving this, given the urgency of the matter. The reason why an affidavit could not at that stage be obtained from the source of the information was explained. It is also difficult to conceive how the admission of the evidence could at this stage be said to prejudice the respondents. The second respondent, to whom the remarks were attributed, could quite easily have denied having made them or he could have explained what he meant by them. Mr Khokho was unable to explain why this was not done.

¹⁶ 45 of 1988

- [36]. It could in any event be argued that the evidence of what the second respondent had said would not, at least as far as he as a party and as a witness are concerned, be hearsay evidence. The evidence was clearly not tendered as proof of the contents thereof. It was tendered merely to prove that the second respondent had in fact made such remarks. The remarks were not statements of fact, but rather statements of intention¹⁷.
- [37]. The applicant in reply appended an affidavit by Mr Swart, in which he confirms the correctness of the contents of his article, and in which he confirms that the second respondent was the source of the contents concerned.
- [38]. Mr Khokho wished Mr Swart's affidavit to be struck on the basis that the applicant was not entitled to make its case in reply. This was, however, not what the applicant did by obtaining the affidavit from Mr Swart. It had already made out exactly this case in its founding affidavit and was entitled, when it was challenged, to substantiate it in reply¹⁸. As it was put in **Standard Bank of South Africa Ltd v Sewpersadh**¹⁹ the "*primary purpose of the replying affidavit is to put up evidence which serves to refute the case made out by the respondent in his answering affidavit*". The applicant was therefore fully entitled to put up evidence in its replying affidavit to

¹⁷ Compare **S v Holshausen** 1984 (4) SA 852 (A) at 858; **International Tobacco Co (SA) Ltd v United Tobaccos Cos (South) Ltd** 1953 (3) SA 343 (W) at 345 – 346 B; **May v Multilateral Motor Vehicle Accident Fund** 2008 JDR 0861 (BHC) at pp 3 & 4; **Randfontein TLC v Absa Bank Ltd** 2000 (2) SA 1040 (W) at 1052E – 1053F

¹⁸ Compare **Leonard Dingler (Pty) Ltd v National Entitled Workers' Union (NEWU) and Others** 2001 JDR 0509 (LC) at p. 6

¹⁹ 2005 (4) SA 148 (C) at 159G

refute the second respondent's allegation that he had been quoted out of context.

- [39]. The furthest that the second respondent went in his answering affidavit was to state that "*the First Respondent is not intending to invade land unlawfully*". This denial is at the very best ambiguous, in that it leaves room for an interpretation that the intention was indeed to "*invade*" land, but that such invasion would according to the first respondent and its members not be unlawful. It is difficult to conceive of an invasion of land, in the sense of an occupation without the consent of the owner, that would not be unlawful, unless the respondents' attitude was that the invasion of unutilised land would even in such circumstances be lawful.
- [40]. Much was made by Mr Khokho of the fact that the applicant did not identify the property or properties in respect of which it needed protection.
- [41]. Mr Akharwaray explained in his founding affidavit why he was unable to do so. His explanation is borne out by the second respondent's remark in the newspaper article that they "*would be moving into suburban areas of Kimberley*", without specifying which area or areas would be targeted.
- [42]. Mr Khokho argued that the land intended to be invaded may even turn out not to belong to the applicant. The orders in paragraphs 1.3, 1.4 and 1.5 of the rule *nisi* are however specifically limited to the applicant's properties within the Sol Plaatje municipal area and in my view the properties have been sufficiently identified and

described in those orders, taking into account the relief claimed and the circumstances prevailing.

- [43]. Mr Khokho criticised Mr Akharwaray for raising the possibility that the land intended to be invaded may even be unsuitable for residential purposes. I can see no reason why Mr Akharwaray, if some of the properties of the applicant would indeed be unfit for human habitation, would not be entitled (and indeed obliged) to alert the Court to such possibility; especially given the secretive nature of the respondents' plans, as described by the second respondent to Mr Swart.
- [44]. I cannot agree with Mr Khokho's argument that the applicant has an alternative remedy in that it would be entitled to apply for the eviction of people from its property, if invaded. The applicant cannot be expected to sit idly by, knowing what is planned, for people to invade its land and to unlawfully trespass thereon, and only then to apply for relief. To find that this would constitute an alternative remedy, and to in effect in the process allow people to illegally trespass on the applicant's land or to entice or influence others to do so, would be tantamount to "*sanctioning respondents' unlawful conduct*"²⁰. It is in any event common knowledge that applications in terms of **The Prevention of Illegal Eviction from and Unlawful Occupation of Land Act**²¹ can become relatively protracted.

²⁰ Compare **Candid Electronics (Pty) Ltd v Merchandise Buying Syndicate (Pty) Ltd** 1992 (2) SA 459 (CPD) at 463H

²¹ 19 of 1998

- [45]. There is no indication that alternative dispute resolution would have provided the applicant with an effective alternative remedy, as also suggested by Mr Khokho. There was in fact no dispute, and such a clear threat of an unlawful invasion of land would probably not have been susceptible to resolution in that manner.
- [46]. The balance of convenience is not at this stage, where a final interdict is in effect applied for, a factor, but insofar as it may have been, it would clearly have favoured the applicant. The respondents did not point out any inconvenience that they would suffer if they were not allowed to invade land unlawfully and in contravention of the provisions of the **Trespass Act**.
- [47]. Subject to what follows, I am therefore satisfied that the requirements for the confirmation of the rule *nisi* have been met. The applicant has a clear right to the protection of its ownership of the properties belonging to it and it is equally clear there was a reasonable apprehension of the invasion of that right.
- [48]. The first qualification to this is that I do not think that the applicant has made out any case for the order concerning demonstrations and gatherings.
- [49]. Although it is suggested that such a demonstration or gathering may lead to an invasion of land, there is no actual evidence to this effect. There is also no evidence that any land invasions that had already taken place, or any plans of such invasions, had emanated or originated from such demonstrations or gatherings.

[50]. There is also no evidence of a threat to conduct such demonstrations or to hold such gatherings without complying with the relevant statutory provisions. The applicant has therefore not shown that it needs added protection in the form of such an order, in other words in addition to the provisions of the **Regulation of Gatherings Act**, which in any event provides for such notice of gatherings and for authorisation of demonstrations.

[51]. The second qualification is in respect of the so-called fourth and further respondents. I am aware of the fact that in some instances unidentified people may be cited and may be interdicted²². In those cases, however, the intended respondents, albeit not identified by name, could at least be identified with reference to the specific property that they occupied or planned to occupy.

[52]. The position in the present matter is completely distinguishable. The people targeted by the relief in paragraphs 1.1, 1.3, 1.4 and 1.5 are all people, even including non-members of the first respondent-

52.1) who would trespass in contravention of the provisions of the **Trespass Act** and/or entice or influence members of the public to do so²³;

52.2) who would provide unlawful permission to and/or entice and/or influence members of the public to invade or occupy the applicant's property²⁴;

²² Compare **Unlawful Occupiers School Site v City of Johannesburg**, *supra*; **Blum NO v Seshoka** 2015 JDR 0893 (GP)

²³ Paragraph 1.1 of the rule *nisi*

²⁴ Paragraph 1.3 of the rule *nisi*

52.3) who would themselves occupy or erect structures on such land²⁵; and

52.4) who would damage or destroy the applicant's property²⁶.

[53]. As regards paragraph 1.1 of the rule *nisi* a proper case has been made out against the first and second respondents. As far as the first respondent is concerned, the second respondent quite clearly spoke to Mr Swart in his official capacity as an office bearer of the first respondent and the latter has in no way distanced itself from the second respondent's remarks.

[54]. A case has in my view also been made out in respect of members of the first respondent. The first respondent has, as already mentioned, not distanced itself from the threats made by the second respondent in his official capacity and in circumstances where the threats could be viewed as having in effect been made on behalf of the first respondent. The members of the first respondent as an organisation are in effect represented by it, and its association with and ostensible approval of the second respondent's threats, at the very least after the fact, must therefore be attributed to them. In fact, the second respondent did not threaten to act alone. He made it very clear that the invasion would be carried out by the "supporters" of the first respondent as a "party" and his use of the word "we" could in the circumstances only have been a reference to himself and other members of the first respondent. The rule *nisi*

²⁵ Paragraph 1.4 of the rule *nisi*

²⁶ Paragraph 1.5 of the rule *nisi*

was published as ordered and none of the other members have come forward to oppose the application or to disassociate themselves from the second respondent's threats. Being interdicted from unlawful and even illegal conduct could in any event not prejudice them. In my view the final order should however, like the rule *nisi*, be published in an attempt to inform members of the first respondent of the final orders.

[55]. Very much the same applies to the third respondent. He is the provincial chairperson of the first respondent. He opposed the application and it would have been very easy for him to simply explain that what the second respondent was alleged to have said did not represent his plans and views, nor those of his party. Mr Van Tonder, counsel for the applicant, however correctly conceded that no case had been made out that the third respondent had actually himself threatened to invade the applicant's property or to be part of such an invasion. This will be taken into account when costs are considered.

[56]. No case has been made out in respect of non-members of the first respondent, and members of the public in general, as regards any of the relief contained in paragraph 1.1. There is no evidence that such persons may trespass or may entice or influence others to do so. This was also correctly conceded by Mr Van Tonder.

[57]. As far as paragraphs 1.3 and 1.4 of the rule *nisi* are concerned I am again of the view that a proper case has been made out against the first, second and third respondents, as well as against members of

the first respondent, but not as far as members of public in general are concerned.

[58]. As regards paragraphs 1.3 and 1.4 of the rule *nisi* the added problem is that the relief is not restricted to unlawful invasion, occupation and erection of structures. Those orders should be amended accordingly. In my view such an amendment could not cause any prejudice.

[59]. The further qualification would be in respect of paragraph 1.5 of the rule *nisi*. There is no evidence of a threat or an apprehension of damage to or destruction of the applicant's property. It follows that paragraph 1.5 of the rule *nisi* cannot be confirmed.

[60]. Even so the applicant would still have been successful in its application to a substantial extent and would in my view be entitled to its costs.

[61]. In view of what has been said regarding the third respondent I do not think that it would be fair to hold him liable for costs. Although he opposed the application, he never even deposed to an affidavit.

[62]. The following orders are therefore made:

1. THE ORDERS IN PARAGRAPHS 1.2 AND 1.5 OF THE RULE *NISI* ISSUED ON 13 APRIL 2015 ARE DISCHARGED.
2. THE FIRST, SECOND AND THIRD RESPONDENTS, AS WELL AS MEMBERS OF THE FIRST RESPONDENT, ARE INTERDICTED AND PROHIBITED FROM COMMITTING AN OFFENCE IN TERMS OF SECTION 1 OF THE TRESPASS ACT, 6 OF 1959,

AND/OR ENTICING AND/OR IN ANY WAY WHATSOEVER INFLUENCING MEMBERS OF THE PUBLIC TO COMMIT SUCH AN OFFENCE.

- 3. THE FIRST, SECOND AND THIRD RESPONDENTS, AS WELL AS MEMBERS OF THE FIRST RESPONDENT, ARE INTERDICTED AND PROHIBITED FROM PROVIDING ANY KIND OF UNLAWFUL PERMISSION TO AND/OR ENTICING AND/OR IN ANY WAY WHATSOEVER INFLUENCING MEMBERS OF THE PUBLIC TO UNLAWFULLY INVADE AND/OR OCCUPY ANY IMMOVABLE PROPERTY OF THE APPLICANT SITUATED WITHIN THE BOUNDARIES OF THE SOL PLAATJE MUNICIPAL DISTRICT.**
- 4. THE FIRST, SECOND AND THIRD RESPONDENTS, AS WELL AS MEMBERS OF THE FIRST RESPONDENT, ARE INTERDICTED AND PROHIBITED FROM UNLAWFULLY TAKING OCCUPATION OF AND/OR ERECTING STRUCTURES ON ANY IMMOVABLE PROPERTY OF THE APPLICANT SITUATED IN THE SOL PLAATJE MUNICIPAL DISTRICT.**
- 5. THIS ORDER SHALL BE SERVED ON MEMBERS OF THE FIRST RESPONDENT BY MEANS OF ONE PUBLICATION THEREOF IN THE DIAMOND FIELDS ADVERTISER.**
- 6. THE SOUTH AFRICAN POLICE SERVICE IS DIRECTED AND AUTHORISED TO TAKE ALL REASONABLE AND NECESSARY STEPS TO GIVE EFFECT TO THIS ORDER.**
- 7. THE FIRST AND SECOND RESPONDENTS ARE ORDERED TO PAY THE APPLICANT'S COSTS JOINTLY AND SEVERALLY, THE ONE TO PAY THE OTHER TO BE ABSOLVED.**

**C J OLIVIER
JUDGE
NORTHERN CAPE DIVISION**

For the applicant: Adv A G Van Tonder
Instructed by: Van de Wall and Partners, Kimberley

For the first, second and third respondents: Adv N D Khokho
Instructed by: Mzuzu Attorneys, Kimberley