



**IN THE HIGH COURT OF SOUTH AFRICA
(EASTERN CAPE DIVISION, MTHATHA)**

Case No: 3802/2021

In the matter between:

AMAFANA-NKOSI ROYAL FAMILIES

Applicant

and

PRINCESS MAGADLA

1st Respondent

PREMIER OF THE EASTERN CAPE PROVINCE

2nd Respondent

**MEMBER OF THE EXECUTIVE COUNCIL
FOR CO-OPERATIVE GOVERNANCE AND
TRADITIONAL AFFAIRS**

3rd Respondent

TANDUXOLO MAGADLA

4th Respondent

MANGUZELA TRIBAL AUTHORITY

5th Respondent

In re:

PRINCESS MAGADLA

Applicant

and

PREMIER OF THE EASTER CAPE PROVINCE

1st Respondent

**MEMBER OF THE EXECUTIVE COUNCIL
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3rd Respondent

MANGUZELA TRIBAL AUTHORITY

4th Respondent

JUDGMENT

ZONO AJ:

Introduction

[1] Pursuant to the granting of the court order dated 17 May 2022 by default, an application for rescission thereof was launched together with an application for condonation of the late filing of the rescission application on 31 January 2025. An answering affidavit was delivered on 7 March 2025, which was followed by a replying affidavit. A date for hearing of the application for rescission of default judgment in the opposed motion court was applied for, and the date of the 12 June 2025 was given.

[2] To eliminate any potential confusion in parties' appellations, I propose to refer to them using their names for clarity. I do so with the utmost humility and respect for the parties. The judgment sought to be rescinded was obtained in favor of Princess Magadla ("Princess") against Tanduxolo Magadla ("Tanduxolo"), the Premier of the Eastern Cape ("the Premier"), the Member of Executive Council for Co-Operative Governance and Traditional Affairs ("MEC") and Manguzela Tribal Authority ("the Tribal Authority"). It does not appear that the court order of 17 May 2022 had practical effect on the MEC and the Tribal Authority.

[3] Only Princess Magadla opposed the application for the rescission of the court order. As stated above, she deposed and filed her answering affidavit, to which Tanduxolo Magadla replied.

[4] On 4 June 2025, five (5) court days before the hearing of the application for rescission of the court order of 17 May 2022, an application was brought by a party called Amafana-nkosi Royal Families (“Amafa-nankosi”), whose legal capacity and status is not discernible from the founding papers. Amafa-nankosi sought to intervene in the proceedings as a party in the rescission application. The intervention application was opposed by Princess Magadla. Amafa-nankosi delivered their replying affidavit on 10 June 2025, in which they defined themselves as a royal family as defined in the Act.¹

[5] During the hearing of the matter it logically and legally became clear that the intervention application, as an interlocutory application, must be heard before the rescission application. All parties agreed to this approach as the one that is legally apposite. The matter accordingly proceeded and the intervention application by Amafa-nankosi was heard. An application of this nature can be made at any stage of the proceedings.²

Intervention application

[6] The point of departure should be Rule 12 of the Uniform Rules of Court. Rule 12 of the Uniform Rules of Court provides:

“Any person entitled to join as a plaintiff or liable to be joined as a defendant in any action may, on notice to all parties, at any stage of the proceedings apply for leave to intervene as a plaintiff or a defendant. The court may upon such application make such order, including any order as to costs, and give such directions as to further procedure in the action as to it may seem meet.”

¹ Eastern Cape Traditional Leadership and Governance Act, No 1 of 2017.

² Rule 12 of Uniform Rules of Court.

[7] An intervening party is a person entitled to be joined. As in the case of joinder³ the applicant for leave to intervene must show that he has a direct and substantial interest in the subject matter of the action or proceedings.⁴ The test is whether or not a party has a direct and substantial interest in the subject matter of action, that is, a legal interest in the subject matter of the litigation which may be affected prejudicially by the judgment of the court.⁵

[8] Amafa-nankosi contends that it has a legal interest in the subject matter of proceedings. In doing, Amafa-nankosi pins its faith on the provisions of the Eastern Cape Traditional Leadership and Governance Act (“the Act”). Amafa-nankosi contends that it is the Royal Family contemplated in section 23(4), 24(2) and 25(1) of the Act. Its central contention is that as a royal family, it plays a central and crucial role in the identification which leads to the recognition of a traditional leader. It further contends that, as a royal family, it is pivotal in the removal of a traditional leader. The epic point of its contention is that the application as well as the court order of 17 May 2022 had an adverse effect on the appointment of a traditional leader in their jurisdiction. The court order dated 17 May 2022 effectively directed the removal of their traditional leader without their involvement in the proceedings as a royal family. It is therefore in the light of the above that Amafa-nankosi contends that it has a direct and substantial interest in the matter.

[9] Whilst Amafa-nankosi appropriates to themselves a title of a “Royal Family”, it also states that there is a broader royal family, which is Magadla Royal Family of which Amafa-nankosi is part. During argument by counsel for Amafa-nankosi, Mr Nase, it became crystal that Amafa-nankosi is a breakaway or a dissatisfied group of Magadla Royal Family. However, it is a common cause that Amafa-nankosi comprises of individual members of Magadla Royal Family.

[10] A serious debate arose during hearing about the conflation of a royal family on the one hand and individual members of the royal family. Amafa-nankosi seem not to appreciate a distinction between individual members of the royal family and

³ Rule 10 of the Uniform Rules of Court

⁴ *Henri Viljoen (Pty) Ltd v Awerbuch Brothers* 1953 (2) SA 151 (O) at 167.

⁵ *Zingwazi Contractors CC v Eastern Cape Department of Human Settlements* 2021 (6) SA 557 (ECG) para 35.

the royal family itself. A group of persons organising themselves within a statutory and customary structure in the form of a royal family does not make it (that group of members) a royal family. They bear the brand of a royal family to which they belong. Their differences in views and opinions does not extinguish their homogeneity to their royal family. Amafa-nankosi is a still member of Magadla Royal Family regardless of their differences. It is not a distinct royal family from the broader recognised statutory and customary institution or structure, which is Magadla Royal Family. This leads me to the definition of a royal family.

[11] Section 1 of the Act defines a royal family thus: -

“Royal family means the core customary institution or structure consisting of immediate relatives of the ruling family within a traditional community, who have been identified in terms of custom, and includes, where applicable, other family members who are close relatives of the ruling family.”

[12] The plain wording of the definition of a royal family shows that there can only be one royal family in the traditional community. The plurality of the naming of the applicant as Amafa-nankosi Royal “families” do not conform with the definition of a royal family. Secondly, the fact that Magadla Royal Family is not only acknowledged but also recognised by the Amafa-nankosi as a royal family of which it is a member attests to the fact that “the broader” royal family, as they call it, is the royal family within the traditional community. Magadla Royal Family is the royal family defined in the Act. The Act as a whole envisages that there is one royal family within the traditional community. The very sections 23, 24, 25 and 26 of the Act make reference only to a singular royal family.

[13] In terms of the provisions of the Act relied upon by the applicant, Amafa-nankosi, it is the royal family concerned that play a crucial and central role in the appointment and removal of a traditional leader. The party or royal family that has a legal interest in the appointment and removal of a traditional leader is the one that satisfies the definition of a royal family. I have already made a finding that the applicant, Amafa-nankosi, does not satisfy the definition of a royal family. It worth repeating that individual members of a royal family are not a royal family. They are

building blocks or units of a royal family. When they sit as individual members, they do not attain a status of a royal family.

[14] There was no basis in law for the applicant in the main application, Princess Magadla to join Amafa-nankosi as they are not a legally recognised royal family. There is no obligation to join individual members of the royal family when the royal family has a distinct legal personality, with capacity to sue and to be sued in its own name. Royal family is distinct from its members. I therefore find that the applicant, Amafa-nankosi has no direct and substantial interest in the matter and therefore cannot be granted leave to intervene. This application must accordingly fail. I see no reason why costs cannot follow the result.

[15] I, however, need to expatiate on the question of costs. I have already found that Amafa-nankosi is not a legally recognised entity and has no legal personality. It is a structure that is not identifiable. It will also be difficult, if not impossible to grant an effective order of costs against Amafa-nankosi. An effective costs order can be granted against those members who identified themselves with this litigation. Mr Mandla Galo is the deponent to the affidavits aforesaid. In instituting these proceedings, he relied on a purported authorization or delegation of authority signed by one Mr Lulama Jojo. No other party or person is identifiable in the papers.

[16] In the result I make the following order: -

- 16.1 The application for leave to intervene is dismissed.
- 16.2 Mr Mandla Galo and Mr Lulama Jojo are directed to pay costs of this application.

AS ZONO
JUDGE OF THE HIGH COURT (Acting)

Appearances

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Date heard

Date delivered

12 June 2025

19 June 2025