

REPUBLIC OF SOUTH AFRICA

IN THE HIGH COURT OF SOUTH AFRICA

LIMPOPO DIVISION, POLOKWANE

(1) REPORTABLE: ~~YES~~/NO
(2) OF INTEREST TO THE JUDGES: ~~YES~~/NO
(3) REVISED: **YES**
.....
.....

DATE **2 October 2025** SIGNATURE.....

CASE NUMBER: 3124/2025

In the matter between:

**INTERNATIONAL PENTECOST HOLINESS CHURCH
(THABAZIMBI BRANCH)**

APPLICANT

-and-

MATLI LESIBA LUCAS

1ST RESPONDENT

SEKOBOANE ABEL SONNYBOY

2ND RESPONDENT

MOTHLAKE PHILLIP

3RD RESPONDENT

MINISTER OF POLICE

4TH RESPONDENT

STATION COMMANDER

5TH RESPONDENT

THABAZIMBI POLICE STATION

FREDERICK LEONARD MODISE

6TH RESPONDENT

Delivered : 02 October 2025

This judgment was handed down electronically by circulation to the parties' legal representatives by e-mail. The date and time for hand down of the judgment is deemed to be **02 October 2025 at 10:00 am.**

Date heard : 02 October 2025

Coram : Bresler AJ

JUDGMENT

BRESLER AJ:

Introduction:

[1] The Applicant applies for an order restoring their undisturbed possession and control of the Thabazimbi Branch of the International Pentecost Holiness Church (IPHC) to Priest Mense Tshimole acting on behalf of IPHC and ancillary interdictory relief.

- [2] The Application was initially enrolled on the 1st of April 2025 on which date it was struck by the Honourable Naude-Odendaal J. Hereafter it was enrolled on the 8th of April 2025 and heard by the Honourable Kganyago J who similarly struck the matter from the roll with costs.
- [3] This resulted in a request to the Office of Judge President for a preferential hearing date and the subsequent enrolment thereof before this Court on the 23rd of September 2025.
- [4] The Applicant's case is clear. The Applicant is a voluntary association and a universitas that enjoys legal personality separate from its members. The Applicant was in undisturbed possession of the premises utilized by the IPCH in Thabazimbi and situated at Stand 9[...], Extension 4, Regorogile, Thabazimbi.
- [5] The Applicant provided a detailed history of the historical disputes between the IPCH, Frederick Leonard Goitsewang Modise (the 6th Respondent) and Tshepiso Modise. These two individuals were the sons of the late Comforter Glayton Modise who claimed that they are entitled to be his successors in title. Their appointment was however not favoured by the IPCH and Bhekhumzi Mike Gilbert Sandlana ('Sandlana') was appointed accordingly as comforter on the 25th of October 2018.
- [6] Tshepiso broke away and formed his own faction in Springs and the 6th Respondent followed suit by forming his own faction called 'Bring God Back Group' or 'Bana Ba Morena Jakobob' (BGB or Jakobob Group). The 6th Respondent and his followers

invaded the Zuurbekom premises occupied by IPCH. The eviction of these followers is still pending before the North Gauteng Division of the High Court, Pretoria.

- [7] Several disruptions at IPCH premises followed. A disruption at the Leokaneng Branch resulted in an order granted by the above Honourable Court on 4 June 2019 *inter alia* restoring possession and occupation of the premises.
- [8] Legal proceedings were instituted by the 6th Respondent and Tshepiso to set aside the appointment of Sandlana. These cases were however withdrawn, and the applicable costs were tendered.
- [9] It was anticipated that these disruptions would seize having regard to the challenge to the appointment of Sandlana that was withdrawn. On or about the 15th of February 2025, the 1st to 3rd Respondents came to the premises of the IPCH in Thabazimbi with the sole purpose of challenging the leadership and questioning who should lead the church activities. They are known supporters of the BGB movement. These individuals however left the church already during 2019 to follow the BGB movement and did not return prior to the February 2025 incident.
- [10] The incident escalated to the point where the assistance of the South African Police Services (the 'SAPS') was called in. The SAPS endeavoured to descale the situation by locking the church and retaining the keys pending proof of lawful occupation and possession of the church.

- [11] The deponent presented himself to the Police station on the 16th of February 2025 with the relevant documentation and the keys were returned to him. In the meanwhile, Priest Mmopi (who is a lawfully appointed priest of IPCH) was served with a Protection against Harassment order interdicting him from taking part or interfering with the church activities.
- [12] On the 22nd of February 2025, the SAPS again attended the premises of IPCH accompanied by members of the BGB. They found the premises locked by the members of IPCH responsible for security. They then broke the padlock, entered the church premises and subsequently arrested Priest Mmopi for contravening the Protection order.
- [13] Hereafter the church was again locked and the keys retained by the SAPS. On Monday 24 February 2025, the deponent and his attorneys attended the SAPS to procure the keys. He was informed that the keys were handed to the 2nd Respondent. The Applicant reiterated that the SAPS was in possession of documentation proving that the deponent is in rightful possession of the building – notwithstanding the said proof the keys were handed to the 2nd Respondent without any legal justification and without the consent of the Applicant or the deponent.
- [14] The Application is opposed by the 1st, 2nd and 3rd Respondent. The 3rd Respondent stated that he is currently a Priest at the IPHC (Thabazimbi branch).

[15] *in liminé*, the Respondents stated that the Protection order renders the current matter before court *lis pendens*. From the onset, this Court indicated that, to succeed with *lis pendens*, it must be shown that the cause of action is the same and that the relief to be granted will have the same effect. Save for these requirements, the Court retains a discretion to hear the current matter in favour of the other matter even if the requirements of *lis pendens* are met. The parties were accordingly directed to continue with arguments on the current matter.

[16] The 1st to 3rd Respondents furthermore denies that the deponent is the duly appointed Priest for Thabazimbi as a certain Mr Hlabadira was appointed as Priest. Proof was submitted by means of a letter purportedly from IPHC to the Station Commander and dated the 27th of February 2025.

[17] The 1st to 3rd Respondents state that there are two church councils and that they are representing the lawful council in terms of a court order granted by the Gauteng Division of the High Court on 25 April 2016. The appointment of Sandlana is therefore of no effect since it was not the correct council that supported the appointment. In Court, and after this Court indicated that the withdrawal of the proceedings resulted in that order being moot, it was argued that they were appointed during the effective time of the order and this consequently validates their appointment as the correct council. As is evidence from the analysis of the law herein under, this Court is not called upon to determine this issue in these proceedings.

[18] Quite critical to the determination of this matter is the fact that the Respondents, on their own version admit that they were not in effective possession and occupation of the church premises at the time when the alleged incident occurred in February 2025. They were in fact 'chased' from the church during 2019 and were utilizing another premises. This alternative premises was destroyed in a thunderstorm resulting in them concluding that they are entitled to retake the church premises for their own use.

[19] The 1st to 3rd Respondents also submit that, as their deponent is also a duly ordained priest of the IPHC, he has a clear right to be in possession of the keys and presumably to prohibit the Applicant's deponent access thereto. This nullifies the clear right alleged by the Applicant.

[20] In reply, particulars are provided as to the alleged court order appointing the valid council. These proceedings were withdrawn. It follows that the effect of the Court order has come to an end as the order explicitly provides that the *status quo* will prevail only until the finalization of the dispute. Once the case was withdrawn, it was deemed to be finalized.

[21] It was again reiterated that the Applicant was in lawful occupation, and remained so until the 1st to 3rd Respondents unlawfully, and without the Applicant's consent, deprived them of their possession by utilising the SAPS to lock the church and give the keys to the Respondents.

[22] Prior to the commencement of argument in court on the merits, the parties placed

on record that the 1st to 3rd Respondents belatedly and on the 18th of September 2025, delivered a notice in terms of Rule 7(1) challenging the authority of the Applicant's deponent and the attorneys to represent the Applicant.

[23] Judgment on this issue was delivered *ex tempore* in Court. In summary, this Court found that the challenge was delivered out of time and without prior leave from the Court. It is moreover evident that the 1st to 3rd Respondents' challenge would result in the Court making a finding as to the validity of the separate councils involved in the underlying dispute. It was therefore found that for purposes of these proceedings, and insofar as the Founding affidavit clearly shows the faction to which the Applicant's deponent belongs, the deponent and the attorneys have satisfied the Court that they are indeed authorised to represent the Applicant as cited.

Issues that require determination:

[24] This Court is only called upon to determine if the Applicant was spoliated by the 1st to 3rd Respondents and if a case was made out for the relief as prayed for in the Notice of motion. Both parties conceded that no relief can be granted to the extent of prohibiting the 1st to 3rd Respondents from attending church or accessing the premises for purposes of attending church services or activities.

The Applicable Legal Principles:

[25] Spoliation is defined as the wrongful deprivation of another's right of possession. A person who has been dispossessed of property without due legal procedure may apply to court to have the property returned to him.

[26] The nature of a *mandament van spolie* is described in the seminal case of **Nino Bonino v de Lange**¹, where the Learned Innes CJ at p.22 stated that:

‘Spoliation is any illicit deprivation of another of the right of possession which he has whether in regard to movable or immovable property or even in regard to a legal right’.

[27] In the case of **Yeko v Qana**², it was held that an applicant for spoliation remedy must satisfy the court that –

27.1 he was in possession or had *quasi* possession of the property; and

27.2 that the respondent deprived him of the possession forcibly or wrongfully against his consent.

[28] It is evident from the papers before court that, at the time when the Applicant was deprived of the keys to the premises by the SAPS, the Applicant was in possession and occupation of the property.

[29] Whether its possession and occupation was legal or lawful, having regard to the different factions and the underlying dispute between the respective councils of the

¹ 1906 T. S. 120

² 1973 (4) SA 735 (A)

IPHC, is not for this court to determine insofar as the relief is simply aimed at temporarily restoring possession and occupation. It is trite law that a spoliation order has an interim or preliminary or contingent character in the sense that it determines the question of interim possession pending the determination of the right to possess by litigation³.

[30] The second aspect that stands to be determined is if the Applicants were deprived of possession forcibly or wrongfully against their consent. Having regard to what has been stated, it is evident that the Applicant's representatives did not freely leave the premises. They were met with the intimidating presence of Police officers taking the keys and locking the church premises. Hereafter, the keys were made available to the 1st to 3rd Respondent without due legal process and without the consent of the Applicant.

[31] Deprivation of possession must also be wrongful. The 1st to 3rd Respondents argued that the keys were taken by the SAPS and handed to them. They were therefore not the spoliators. In this Court's view, they put the actions of the SAPS in motion. It is on their instructions and at their behest that the SAPS intervened. Subsequent hereto, they presented the SAPS with a letter claiming to be the rightful occupants of the church premises and creating the impression that they have been in possession of the premises all along.

[32] In this Court's view, these actions are sufficient to conclude that the 1st to 3rd Respondents are, in fact, the spoliators.

³ *Potgieter v Le Roux* (1909) 19 CTR 480

[33] As to the ancillary relief, it was *inter alia* argued that the Applicant is not entitled to any interdictory relief as they failed to show a clear right. Having regard to the findings in the *ex tempore* judgment on the Rule 7(1) notice, this Court finds that a clear right has been shown to exist insofar as the Applicant's deponent is the representative of the faction of the IPHC church that made use of the church premises prior to their dispossession thereof. It must also be borne in mind that, at this stage, the challenge to the appointment of Sandlana is no longer alive as the proceedings were withdrawn. It follows that, in the absence of a pending dispute, his appointment must be accepted as providing his faction of the IPHC with a clear right to interdictory relief. The remaining elements, being an interference with the Applicant's rights and the lack of an alternative remedy that would yield a satisfactory result, entitling the Applicant to final relief, is evident from the facts of the matter.

[34] Although the Court, for purposes of these proceedings, finds that the Applicant has a clear right to the interdictory relief, this does not prohibit a future challenge to the validity of the appointment of Sandlana as this Court is not called upon to determine the validity of his appointment or the authority of the respective councils representing the IPHC.

[35] As stated during the hearing, the parties are urged to resolve this underlying dispute. It is in the interest of the members of the church to have certainty in this regard. It would also avoid a multiplicity of legal actions (as is evidently currently happening), the costs of which can be utilised for the advancement of the church and its members.

[36] Having said the aforesaid, the Applicant is therefore entitled to revised relief in terms of the Notice of Motion.

Costs:

[37] The normal rule is that the costs should follow the outcome of the proceedings, unless the Court, in its discretion, judicially exercised, finds otherwise. In this instance, the Court sees no reason why the costs should not follow the outcome of the proceedings.

[38] Both parties made use of counsel and the scale of costs pertaining to the appointment of counsel must thus be set. This was a fairly uncomplicated matter, considering the applicable law and the common cause facts between the parties. It was however of considerable importance to the parties, and it has quite an acrimonious backstory. In this Court's view, costs to counsel are therefore warranted on Scale B.

Order:

[39] **In the result the following order is made:**

39.1 The Respondents and all persons acting under their instructions and authority are ordered to restore immediately, the undisturbed possession and control of the Thabazimbi Branch of the International

Pentecost Holiness Church (IPHC) situated at Stand number: 9[...], Extension 4, Regorogile, Thabazimbi, Limpopo Province to Priest Mense Tshimole acting on behalf of the IPhC.

39.2 The Respondents are ordered to return all the keys and / or duplicate keys for the Thabazimbi Branch in their possession within 48 (forty eight) hours from the date of service of this order, to Priest Mense Tshimole acting on behalf of the IPhC.

39.3 The Sheriff and / or his deputy is authorised, with the assistance of members of the SAPS in Thabazimbi, to eject the 1st to 3rd Respondents and / or people associating themselves with their actions, from stand number 9[...], Extension 4, Regorogile, Thabazimbi, in the event that no possession of the premises has been restored to the Applicant, through Priest Mense Tshimole, within 48 (forty eight) hours from the service of the order.

39.5 The 1st, 2nd, 3rd and 6th Respondents, and all persons acting on their instructions or who associate themselves with their actions, are interdicted and restrained from directly or indirectly disrupting or interfering or causing any person to obstruct the religious activities of the Thabazimbi branch, Limpopo Province, under Priest Mense Tshimole.

39.6 The 1st, 2nd, 3rd and 6th Respondents, and all other persons acting on their instructions, or who associate themselves with their actions, are interdicted and restrained from entering and / or being within 50 meters from stand number 9[...], Extension 4, Regorogile, Thabazimbi save insofar as their attendance or presence is for the sake of attending any church and / or church related activities or events.

39.7 The 1st, 2nd, 3rd and 6th Respondents are ordered to take all reasonable and necessary steps to ensure compliance with this order by their supporters or people who associate themselves with their actions, which includes, but are not limited to, publication of this judgment and order on social media or any other platform where it can be reasonably be expected to come to the knowledge of their members and / or supporters and / or third parties having a potential interest in these proceedings.

39.8 Leave is granted to the Applicant to serve a copy of this order and judgment on the Respondents in the following manner:

39.8.1 On the 1st, 2nd, 3rd and 6th Respondent by serving a copy thereof at their current known addresses either by hand or by Sheriff;

39.8.2 Service on the 4th and 5th Respondent by delivery of a copy thereof at their respective addresses and by serving a copy hereof at the offices of the State Attorney, Polokwane.

39.9 The 1st, 2nd and 3rd Respondents, jointly and severally, the one paying the other to be absolved, will pay the costs of the Applicant on party and party scale, including costs to counsel on Scale B.

M BRESLER AJ

**ACTING JUDGE OF THE HIGH COURT,
LIMPOPO DIVISION, POLOKWANE**

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POLOKWANE HIGH COURT