

SAFLII Note: Certain personal/private details of parties or witnesses have been redacted from this document in compliance with the law and [SAFLII Policy](#)

**REPUBLIC OF SOUTH AFRICA
IN THE HIGH COURT OF SOUTH AFRICA
LIMPOPO DIVISION, POLOKWANE**

CASE NO: 2025/223231

(1) REPORTABLE: ~~YES~~/NO

(2) OF INTEREST TO THE JUDGES: ~~YES~~/NO

(3) REVISED.

DATE: 2026/01/05

SIGNATURE

In the matter between:

MPHOFELA MABATANE ZEBULON

Applicant

and

LEPELLE NKUMPI MUNICIPAL MANAGER

First Respondent

LEPELLE NKUMPI MUNICIPALITY

Second Respondent

MAFEFFE TRADITIONAL AUTHORITY

Third Respondent

SETLAMORAGO THOBEJANE

Fourth Respondent

MASHELENI TRADING AND PROJECTS

Fifth Respondent

MINING AND MINERAL ECONOMICS

Sixth Respondent

DEPARTMENT OF MINERALS AND

Seventh Respondent

RESOURCES AND ENERGY

JUDGEMENT

BURNETT, AJ

INTRODUCTION

[1] The matter before this court is an urgent application that was enrolled for hearing on Tuesday, 30 December 2025.

[2] On 20 November 2025 the Applicant approached this Honourable Court for an order, *inter alia*, in the following terms: -

[2.1] Interdicting and prohibiting the Third and Fourth Respondents from conducting a meeting scheduled to take place on 20 November 2025 at 09h00, and more specifically, to recruit and/or cause to recruit and/or appoint or cause to appoint community members and/or any beneficiary to the Eaton Asbestos Rehabilitation Projects Number MTK16/2025.

[3] The Applicant gave the Third to Fourth Respondents approximately 30 minutes notice of the intended hearing and did not attend. Following the hearing of the matter on 20 November 2025 her Honourable Madame Justice Bresler AJ granted a Rule *Nisi* for the above order, with a return date of 3 March 2026.

[4] The Third and Fourth Respondent (collectively referred to as “the Respondents”) anticipated the Rule *Nisi* and enrolled the matter for hearing on the urgent roll for 30 December 2025. The Respondents seek a discharge of the interim interdict and a dismissal of the main application.

[5] No relief, by either party, is sought against the First, Second, Fifth, Sixth and Seventh Respondents and there was no appearance on their behalf. Counsel for both the Applicant and Respondents presented oral arguments. The Respondent’s

counsel provided the court with Heads of Argument, however the Applicants counsel did not.

BACKGROUND

[6] The Applicant states that he is the ward councilor for Ward 29 of the Lepelle Nkumpi Municipality, acting in his personal capacity **and** acting in his official capacity as ward councillor. The Respondents argue that he is no longer the Ward Councilor, having been relieved of his duties.

[7] The Third Respondent is the tribal authority of the Mafefe Village, and the Fourth Respondent is the Head of Communications of the Mafefe Traditional Authority. Mr. Thobejane has been recognised as the senior traditional leader in terms of Section 12 (1) (b) of the Limpopo Traditional Leadership and Institutions Act 6 of 2005. The Traditional Leader, namely Thobejane Moragamedi Kamogelo, has not been joined as a party to these proceedings.

[8] During the early part of 2025 the Department of Minerals, Resources and Energy (the “Seventh Respondent”) developed a project to remove a mine shaft in Ward 29. The Project was called MTK 16/2025 Eaton Rehabilitation Project. The Department was to implement the project through MINTEK (the “Sixth Respondent”). MINTEK contracted MASHELENI TRADING AND PROJECTS (the “Fifth Respondent”) to undertake some of the work. MASHELENI TRADING AND PROJECTS appointed a project manager to ensure the smooth running of the project.

[9] On 31 October 2025 the project manager, and a representative from MINTEK convened a meeting to discuss the project with the LEPELLE NKUMPI MUNICIPALITY. The outcome of the meeting was that the project had to be discussed with the local community of WARD 29.

[10] The parties have different versions as to what transpired at the meeting and thereafter.

[10.1] The Applicant states that the Municipal Manager requested him to arrange and attend a meeting with the local community. The meeting was to take place at the Mafefe Tribal Authority (Third Respondent). According to the Applicant, the Third Respondent did not want to attend the meeting. Following the meeting, the Applicant, on the instruction of the MINTEK, appointed 100 members of the community to benefit from the project. The Applicant accepted the instruction through a process, appointed 100 members of the community to benefit from the project. It seems that the “benefit” means employment on the project.

[10.2] The Respondents state that they did attend the meeting through duly appointed representatives, however the meeting became disruptive when the Applicant, upon request, refused to withdraw from the meeting. He was requested to withdraw from the meeting because: -

[10.2.1] He lacked the necessary authority to conduct the meeting and select and appoint the beneficiaries to the project.

[10.2.2] He did not follow a proper public participation process involving the wider community.

[10.2.3] He was engaging in a parallel appointment process.

[10.2.4] He had been removed from his position as ward councillor (this is in dispute).

The Respondents made the decision to engage in their own public engagement process to recruit beneficiaries to the project.

[11] It is gathered from the papers that this was an exceptionally important project to the community. A project of this nature would have created jobs for many people and brought money into the community. The project had the potential to make a difference in the lives of community members.

[12] The Applicant's bone of contention is that the Respondents attempted to arrange an assembly to nominate and recruit their own beneficiaries to the project. The Applicant deems this assembly and recruitment to be unlawful. The Applicant states that the Respondents do not have a mandate or authority to recruit members of the community to the project and that the power to do so is exclusive to councillors.

The Applicant attempted to put a stop to the assembly and when it could not do so, launched an urgent application in this court.

[12] The Respondents contend, *inter alia*, that the Applicant does not a) have the authority to choose which members of the community shall benefit from the project and b) have the *locus standi* or authority to bring this application.

LEGAL QUESTIONS

[13] Did the Applicant have *locus standi* to launch the application in his personal capacity?

[14] Does the Applicant have the necessary authority to launch this application in an official capacity?

[15] Has there been a mis-joinder/non-joinder in that the Head of Communications of the Mafefe Traditional Authority, being the Fourth Applicant, is cited as a party to these proceedings instead of the Senior Traditional Leader, Thobejane Moragamedi Kamogelo?

[16] In the event that a) either the Applicant has the *locus standi* to launch this application in his personal capacity or he has the authority to launch the application in an official capacity and b) if there has not been a non-joinder, did the Applicant meet the requirements for an interim interdict?

THE LAW

Locus standi

[17] In ***United Watch and Diamond (Pty) Ltd v Disa Hotels Ltd*** 1972 (4) SA 409 (C) it was held that:-

"To establish that one has *locus standi in judicio*, one must show... that he has an interest in the subject matter of the judgment or order sufficiently direct or substantial"

[18] The learned author opined in Hoexter ***Administrative Law in South Africa*** 2^{ed} (Juta & Co, Cape Town 2012) at page 488 that: -

"The issue of standing is divorced from the substance of the case. It is therefore a question to be decided in limine [at the outset], before the merits are considered."

[19] The Constitutional Court held in ***Giant Concerts v Rinaldo Investments (Pty) Ltd*** 2013 (3) 251 (CC) that: -

"...must still show that a contested law or decision directly affects his or her rights or interests, or potential rights or interests...This requirement must be generously and broadly interpreted to accord with constitutional goals. The interest must, however, be real and not hypothetical or academic. Even under the requirements for common law standing, the interest need not be capable of monetary valuation, but in a challenge to legislation purely financial self-interest may not be enough – the interests of justice must also favour affording standing. Standing is not a technical or strictly defined concept. And there is no magical formula for conferring it. It is a tool a court employs to determine whether a litigant is entitled to claim its time, and to put the opposing litigant to trouble. Each case depends on its own facts. There can be no general rule covering all cases. In each case, an applicant must show that he or she has the necessary interest in an infringement or a threatened infringement. And here a measure of pragmatism is needed."

[20] The Supreme Court of Appeal found in ***Firm-O-Seal CC v Prinsloo & Van Eeden Inc. and Another*** (483/22) [2023] ZASCA 107 (27 June 2023) ad paragraph 6 that:-

“Locus standi in iudicio is an access mechanism controlled by the court itself. Generally, the requirements for locus standi are these: the plaintiff must have an adequate interest in the subject matter of the litigation, usually described as a direct interest in the relief sought; the interest must not be too remote; the interest must be actual, not abstract or academic; and, it must be a current interest and not a hypothetical one. Standing is thus not just a procedural question, it is also a question of substance, concerning as it does the sufficiency of a litigant’s interest in the proceedings. The sufficiency of the interest depends on the particular facts in any given situation. The real enquiry being whether the events constitute a wrong as against the litigant.”

[21] The Appellant Division held in **Gross v Pentz** 1996 (4) SA 617 (A) that: -

“The general rule is that it is for the party instituting proceedings to allege and prove its locus standi, and the onus of establishing it, rests on that party. It must accordingly appear ex facie the founding papers that the parties have the necessary legal standing (locus standi in iudicio).”

Official capacity

[22] The Constitutional Court held in **Fedsure Life Assurance Ltd v Greater Johannesburg Transitional Metropolitan Council** 1999 (1) SA 374 (CC) that: -

“It is central to the conception of our constitutional order that the Legislature and the Executive in every sphere of government are constrained by the principle that they may exercise no power and perform no function beyond that conferred upon them by law.”

[23] **Section 151 (2) of the Constitution of the Republic of South Africa** states that: -

“The executive and legislative authority of a municipality is vested in its Municipal Council.”

[24] **Section 157 of the Constitution of the Republic of South Africa** states that:

-

“(1) A Municipal Council consists of—

(a) members elected in accordance with subsections (2) and (3); or

(b) if provided for by national legislation—

(i) members appointed by other Municipal Councils to represent those other Councils; or

(ii) both members elected in accordance with paragraph (a) and members appointed in accordance with subparagraph (i) of this paragraph.

(2) The election of members to a Municipal Council as anticipated in subsection (1)(a) must be in accordance with national legislation, which must prescribe a system—

(a) of proportional representation based on that municipality’s segment of the national common voter’s roll, and which provides for the election of members from lists of party candidates drawn up in a party’s order of preference; or

(b) of proportional representation as described in paragraph (a) combined with a system of ward representation based on that municipality’s segment of the national common voter’s roll.

(3) An electoral system in terms of subsection (2) must result, in general, in proportional representation.

(4) (a) If the electoral system includes ward representation, the delimitation of wards must be done by an independent authority appointed in terms of, and operating according to, procedures and criteria prescribed by national legislation.

5) A person may vote in a municipality only if that person is registered on that municipality’s segment of the national common voter’s roll.

(6) The national legislation referred to in subsection (1)(b) must establish a system that allows parties and interests reflected within the Municipal Council making the appointment to be fairly represented in the Municipal Council to which the appointment is made.”

[25] **Section 160 of the Constitution of the Republic of South Africa** states that:-

“(1) A Municipal Council—

(a) makes decisions concerning the exercise of all the powers and the performance of all the functions of the municipality;

(b) must elect its chairperson;

(c) may elect an executive committee and other committees, subject to national legislation; and

(d) may employ personnel that are necessary for the effective performance of its functions.

(2) The following functions may not be delegated by a Municipal Council:

(a) The passing of by-laws.

(b) the approval of budgets.

(c) the imposition of rates and other taxes, levies and duties; and

(d) the raising of loans.

(3) (a) A majority of the members of a Municipal Council must be present before a vote may be taken on any matter.

(b) All questions concerning matters mentioned in subsection (2) are determined by a decision taken by a Municipal Council with a supporting vote of a majority of its members.

(c) All other questions before a Municipal Council are decided by a majority of the votes cast.

(4) No by-law may be passed by a Municipal Council unless—

(a) all the members of the Council have been given reasonable notice; and

(b) the proposed by-law has been published for public comment.

(5) National legislation may provide criteria for determining—

(a) the size of a Municipal Council;

(b) whether Municipal Councils may elect an executive committee or any other committee; or

(c) the size of the executive committee or any other committee of a Municipal Council.

(6) A Municipal Council may make by-laws which prescribe rules and orders for—

- (a) *its internal arrangements;*
 - (b) *its business and proceedings; and*
 - (c) *the establishment, composition, procedures, powers and functions of its committees.*
- (7) *A Municipal Council must conduct its business in an open manner, and may close its sittings, or those of its committees, only when it is reasonable to do so having regard to the nature of the business being transacted.*
- (8) *Members of a Municipal Council are entitled to participate in its proceedings and those of its committees in a manner that—*
- (a) *allows parties and interests reflected within the Council to be fairly represented;*
 - (b) *is consistent with democracy; and*
 - (c) *may be regulated by national legislation.”*

[26] **Section 164 of the Constitution of the Republic of South Africa** states that:-

“Any matter concerning local government not dealt with in the Constitution may be prescribed by national legislation or by provincial legislation within the framework of national legislation.”

[27] **Section 53 of the Local Government Municipal Systems Act 32 of 2000** states that: -

“(1) A municipality must, within the framework of and in accordance with the relevant provisions of the Municipal Structures Act, this Act and other applicable legislation, define the specific role and area of responsibility of each political structure and political office bearer of the municipality and of the municipal manager.

(2) The respective roles and areas of responsibility of each political structure and political office bearer and of the municipal manager must: -

- (a) *be defined in precise terms by way of separate terms of reference, in writing, for each political structure or political office bearer and the municipal manager; and*

(b) be acknowledged and given effect to in the rules, procedures, instructions, policy statements and other written instruments of the municipality.

(3) instruments defining, acknowledging or giving effect to the roles and areas of responsibility of these political structures and political office bearers and the municipal manager must be appropriate to the category and type in which the municipality falls.

(4) Terms of reference mentioned in subsection (2)(a) may include the delegation of powers and duties to the relevant political structure or political office bearer or the municipal manager in terms of section 59.

(5) When defining the respective roles and areas of responsibility of each political structure and political office bearer and of the municipal manager, the municipality must determine: -

(a) the relationships among those political structures and political office bearers and the municipal manager, and the way they must interact.

(b) appropriate lines of accountability and reporting for those political structures and political office bearers and the municipal manager;

(c) mechanisms, processes and procedures for minimising cross-referrals and unnecessary overlapping of responsibilities between those political structures and political office bearers and the municipal manager.

(d) mechanisms, processes and procedures for resolving disputes between those political structures and political office bearers and the municipal manager; and

(e) mechanisms, processes and procedures for interaction, between: -

(i) those political structures and political office bearers and the municipal manager and other staff members of the municipality; and

(ii) councilors and the municipal manager and other staff members of the municipality.

(6) If a municipality has a decentralised regional administration in any part of its area, the municipality must determine mechanisms, processes and procedures for interaction between the regional management of the municipality and: -

(a) the ward councilor or other councilor responsible for that part of the municipality's area.

- (b) *any sub council or ward committee, where applicable, in that part of the municipality's area; and*
- (c) *the local community in that part of the municipality's area."*

[28] **Section 59 of the Local Government Municipal Systems Act 32 of 2000** states that: -

"(1) A municipal council must develop a system of delegation that will maximise administrative and operational efficiency and provide for adequate checks and balances, and, in accordance with that system, may: -

- (a) *delegate appropriate powers, excluding a power mentioned in section 160(2) of the Constitution and the power to set tariffs, to decide to enter into a service delivery agreement in terms of section 76(b) and to approve or amend the municipality's integrated development plan, to any of the municipality's other political structures, political office bearers, councilors. or staff members:*

- (b) *instruct any such political structure, political office bearer, councilor, or staff member to perform any of the municipality's duties: and*

- (c) *withdraw any delegation or instruction.*

- (2) *A delegation or instruction in terms of subsection (1):-*

- (a) *must not conflict with the Constitution, this Act or the Municipal Structures Act:-*

- (b) *must be in writing;*

- (c) *is subject to any limitations, conditions and directions the municipal council may impose;*

- (d) *may include the power to sub-delegate a delegated power;*

- (e) *does not divest the council of the responsibility concerning the exercise of the power or the performance of the duty; and*

- (f) *must be reviewed when a new council is elected or, if it is a district council, elected and appointed.*

- (3) *The municipal council: -*

- (a) *in accordance with procedures in its rules and orders, may, or at the request in writing of at least one quarter of the councilors, must, review any decision taken by such a political structure, political office bearer, councilor or staff member in consequence of a delegation or instruction, and either confirm,*

vary or revoke the decision subject to any rights that may have accrued to a person;

(b) and may require its executive committee or executive mayor to review any decision taken by such a political structure, political office bearer, councilor or staff member in consequence of a delegation or instruction.”

Non-Joinder of the Traditional Leader

[29] The Appellant Division held in ***Amalgamated Engineering Union v Minister of Labour*** 1949 (3) SA 637 A at page 659 that: -

“Indeed it seems clear to me that the Court has consistently refrained from dealing with issues in which a third party may have a direct and substantial interest without either having that party joined to the suit or if the circumstances of the case admit of such a course, taking other adequate steps to ensure that its judgment will not prejudicially affect that party’s interests.”

[30] In the matter of ***Stonehill Property Fund Proprietary Limited v Shongwe and Another*** (20421/2024) [2024] ZAWCHC 311 (16 October 2024) at paragraph 20, 27 and 28 it was held that: -

“It should be observed that it is important to remember that when a court pronounces a judgment it should do so without prejudice to the rights and interests of persons who were not parties before it. In that context, it is peremptory that the issue of prejudice must be considered in the determination of necessary non-joinder....the non-joinder of a necessary party is a defect in a pleading that can simply be remedied by a joinder. Accordingly, a deficiency in pleadings had nothing to do with the merits but is related to procedure. Put differently, a non-joinder cannot defeat the merits, as it may be a reversible error dependant of course, upon circumstances. To hold otherwise would be to extend the scope of and effect of a non-joinder. In the circumstances, it seems entirely reasonable to suppose that, in an application, if the court finds there is a non-joinder of a necessary party, it is competent for

the court to strike the matter from the roll. In any event, nothing prevents this Court from striking the matter from the roll due to non-joinder. This is even the case as the matter is not an action but an application. In this matter, it is however significant to note that the respondents are not applying for joining of the parties, but they are rather objecting to the non-joinder of parties.”

[31] In Herbstein & Van Winsen **“The Civil Practice of the High Courts of South Africa”** 5th edition (2009) at page 208, the learned author stated that following: -

“Apart from considerations of convenience, however there are circumstances in which it is essential to join a party because of the interest that party has in the matter. When such an interest becomes apparent the court has no discretion and will not allow the matter to proceed without joinder or the giving of judicial notice of the proceedings to that party. The reason for this is that it is a principle of our law that interests parties should be afforded an opportunity to be heard in matters that they have a direct and substantial interest....A third party who has, or may have, a direct and substantial interest in any order the court might make in proceedings or if such an order cannot be sustained or carried into effect without prejudicing that party, is a necessary party and should be joined in the proceedings....A direct and substantial interest has been held to be an interest in the right which is the subject matter of litigation and not merely a financial interest in such litigation. It is a legal interest in the subject matter of litigation, excluding an indirect commercial interest only. The possibility of such an interest is sufficient, and it is not necessary for the court to determine that in fact it exists. For a joinder to be essential, the parties to be joined must have a direct and substantial interest not only in the subject matter of litigation, but also in the outcome of it. It is important to remember that a constitutionally protected right is legally enforceable and gives rise to a legal interest which may require a joinder. Thus, whenever an order which may infringe upon the constitutional rights of any person, those persons should be joined or given judicial notice of the proceedings.”

ANALYSIS

Locus standi

[32] The principle of *locus standi in judicio* essentially relates to the right or legal capacity of a party to sue or be sued. *Locus standi* must be established before a determination is made on the merits of the case. If the Applicant cannot establish *locus standi*, the matter must be dismissed, without adjudicating the merits of the matter. The onus rests on the Applicant to prove *locus standi* in his founding affidavit and if he does not do this, it is irrelevant what the merits of the case are.

[33] The Applicant states in the Founding Affidavit that: -

“I am the Applicant herein and in the care of my attorneys at 8[...] H[...] V[...] R[...] Street, Polokwane in Limpopo Province.”

“As already stated above, I am the applicant in this matter, and I accordingly bring this application both in my personal and official capacity.”

[34] The Applicant launched this application in both his **personal and official capacity**. The Applicant alleges that he has been a ward councillor for over fifteen years and that he has been a councillor of Ward 29 since 2021. The Respondents do not dispute that the Applicant has been a ward councillor for a long time, nor that he was appointed as councillor to Ward 21 following the 2021 municipal elections. The Respondents contend that the Applicant has been removed from his position as ward councillor, however this is denied by the Applicant.

[35] The Applicant further states in his founding affidavit that: -

“I wish to preserve the proper and legal functioning of the Municipal Structure Act, as amended, and further preserved peace of the community.”

“I respectfully submit that; I will continue to suffer irreparable harm should the prayers not be granted as prayed for in the notice of motion to the following but not limited to effects: - The Illegal Status quo will prevail.”

“I submit that, as the incumbent and fully elected public representative, I have a right which must be protected and without intervention of the above Honourable Court, will continue to suffer without recourse.

[36] The Applicant does not differentiate his personal interest versus his interests in an official capacity. The Applicant does not explain what his personal interest in the matter is, and without such an explanation, the court cannot ascertain whether he in fact has an interest. The Applicant does not state if he, personally, is a beneficiary to the project or an owner of land that may be encroached upon, or a community member, or a service provider, ect. There is no evidence whatsoever before this that he has a personal interest and why that interest gives him *locus standi* in his personal capacity. The court cannot make a connection between the facts pleaded in the affidavit and the Applicant in his personal capacity.

[37] The Applicant states further in his founding affidavit that: -

“It must be borne in mind that the 7th Respondent will identity the project and through its local stakeholder (the 2nd Respondent), they execute the project through the ward councillor of the relevant municipality.”

[38] It may be that the Respondent has *locus standi* to bring this application on behalf of the Municipality, if the municipality has a direct and substantial interest in the matter, and only if he has the necessary authority to do so. There is not enough information before the court to enable it to determine whether the Municipality has a direct and substantial interest in the matter. The Applicant has, however, not launched the application on behalf of the Municipality, but in his own name as the official ward councillor.

Official capacity

[39] The Applicant states in his Founding Affidavit that: -

“As an ordinary councillor, I have been performing all official duties in council and in my ward to date.”

[40] The Executive and Legislative authority of a municipality vests in its Municipal Council. A Municipal Council is established in terms of Section 157 of the Constitution of the Republic of South Africa. It is not in dispute that the Applicant is or was a councillor, and more particularly of Ward 29 of the Lepelle Nkumpi Municipality and accordingly he forms part of the Municipal Council. The Municipal Council derives its powers in terms of Section 160 of the Constitution of the Republic of South Africa and the Local Government: Municipal Structures Act 117 of 1998.

[41] A ward councillor is a political office bearer (voted in during an election or by-election) who becomes a member of the Municipal Council. The ward councillors' duties as a political office bearer are derived from Section 53 of the Local Government: Municipal Systems Act 32 of 2000. As a political office bearer, the Applicant's role and area of responsibility must be defined in precise terms by way of separate terms of reference, in writing. Terms of reference may include the delegation of powers and duties to the relevant political structure or political office bearer or the municipal manager in terms of section 59 of the Local Government: Municipal Systems Act 32 of 2000. The council may delegate powers to the Applicant; however, the delegation of powers must be in writing and may be subject to limitations, conditions and directions as imposed by the Municipal Council.

[42] Generally a ward councillor, as a political office bearer, has inter alia the following duties:- a) to represent the people in the municipality and cooperate with other councillors in the best interest of the community; b) to communicate the needs of the community to the Municipal Council and the council processes to the community; c) to prepare and attend meetings unless they have a special leave of absence; d) to monitor the performance of the municipality; e) to raise issues of concern with the relevant bodies and provide feedback on the municipality's performance; f) to follow the code of conduct in terms of Section 54 of the Local Government: Municipal Systems Act 32 of 2000, which includes not disclosing information to people that can unfairly benefit from it.

[43] To the extent that the Applicant was conferred the responsibility of a) recruiting, nominating and appointing beneficiaries to a community project and b)

launching legal action in his official capacity, it must be defined in writing as part of the Applicant's role and area of responsibility in terms of Section 53 or Section 59 of the Local Government: Municipal Systems Act 32 of 2000; the onus rested on the Applicant to plead such and attach a copy of the written document to his Founding Affidavit.

[44] If the Applicant does have the necessary authority to bring this application on behalf of the Municipal Council, then why would the Municipal Manager and the Lepelle Nkumpi Municipality be joined as Respondents to the matter? If the Applicant had the necessary authority to bring this application; the Lepelle Nkumpi Municipality would be the Applicant, and the Applicant (as ward councillor) would merely have deposed to the affidavits on its behalf.

[45] There is no evidence before this Court to prove that the Applicant was authorized to bring this application in his official capacity or on behalf of the Lepelle Nkumpi Municipality, the Municipal Council or any of the residents in Ward 29. The application must fail.

Non-Joinder of the Traditional Leader

[46] The Applicant sought the interim interdict against the Third and the Fourth Respondent. The Applicant erroneously named Setlamorago Thobejane (Head of Communications of the Tribal Authority), instead of Thobejane Moragamedi Kamogelo, as the Senior Tribal Leader. There is no evidence that the Applicant sought to purposively mislead the court by providing incorrect information in its papers; it was properly an innocent error, however it is a material error non the less.

[47] The Applicant's intention was to obtain an order and execute it against, *inter alia*, the Senior Tribal Leader and not the Head of Communications. The error does constitute both a mis-joinder and a non-joinder and normally a court would strike the matter from the roll in accordance with the principle embodied in the **Stonehill Property Fund** judgment, however due to the fact that the matter is to be dismissed because of a lack of *locus standi* / lack of authority, a striking is obviously not necessary.

Requirements for an interim interdict

[48] Having regard to the fact that the matter stands to be dismissed, it is not necessary to deal with the requirements for an interim/final interdict and compliance therewith.

ORDER

[49] I accordingly make the following order: -

[49.2] The Rule Nisi that was handed down on 20 November 2025 is hereby discharged.

[49.3] The Applicant's application is dismissed.

[49.4] The Applicant is to pay the Third and Fourth Respondents costs on a scale C.

BURNETT, E J
ACTING JUDGE OF THE HIGH COURT,
POLOKWANE; LIMPOPO DIVISION

APPEARANCES

FOR THE APPLICANT: -

INSTRUCTED BY: -

MATHABATHA LEKOLOANE ATTORNEYS

FOR THE 3rd and 4th RESPONDENT: - ADV. TSHIGIDIMISA

INSTRUCTED BY:-

BALOYI V A ATTORNEYS

DATE OF HEARING: -

29 DECEMBER 2025

DATE OF JUDGMENT: -

5 JANUARY 2026