

REPUBLIC OF SOUTH AFRICA



**IN THE HIGH COURT OF SOUTH AFRICA
GAUTENG DIVISION, PRETORIA**

Case Number: 2024-109823

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

DATE: 3 February 2026

SIGNATURE OF JUDGE:

In the matter between:

**RAMA COMMUNAL PROPERTY ASSOCIATION
EPHRAIM POO N.O.
LIZZY ZWANE N.O.
HANS LETANYE MODISELLE N.O.
MATSHIBISO SELINA DIALE N.O.
ANDREW SELLO PHETO N.O.
ELLIOT BUTSI
ROSE-SOSI DIBETSO**

**1st Applicant
2nd Applicant
3rd Applicant
4th Applicant
5th Applicant
6th Applicant
7th Applicant
8th Applicant**

And

**HENDRIK MPHO NTHITE
SINAH MOSHIBUDI MOTHAPPO
CECILIA LINDIWE MOIANE
MOIPOE ELIZABETH SESOKO
SYDNEY MPPHIKO
LETHLOGONOLO MOENG
ECKRAAL QUARRIES (PTY) LTD**

**1st Respondent
2nd Respondent
3rd Respondent
4th Respondent
5th Respondent
7th Respondent
7th Respondent**

**MINISTER OF AGRICULTURE, LAND REFORM AND
RURAL DEVELOPMENT
CITY OF TSHWANE METROPOLITAN MUNICIPALITY
NATIONAL DIRECTOR OF PUBLIC PROSECUTIONS
RAMA HD INVESTMENTS 1
RAMA HD INVESTMENTS 2**

**8th Respondent
9th Respondent
10th Respondent
11th Respondent
12th Respondent**

Case Number: 2025-026086

In the matter between:

**EPRAIM POO
LIZZY ZWANE
HANS LETANYE MODISELLE
MATSHIDISO SELINA DIALE
ANDREW SELLO PHETO
ELLIOT BUTSI
ROSE-SOSI DIBETSO**

**1st Applicant
2nd Applicant
3rd Applicant
4th Applicant
5th Applicant
6th Applicant
7th Applicant**

And

**RAMA COMMUNAL PROPERTY ASSOCIATION
REG NO: CPA/02/0435/A
HENDRICK MPHO NTHITE N.O.
SINAH MOSHIBODI MOTHAPPO N.O.
CECILIA LINDIWE MOIANE N.O.
MOIPOONE ELIZABETH SESOKO N.O.**

**1st Respondent
2nd Respondent
3rd Respondent
4th Respondent
5th Respondent**

In re:

**RAMA COMMUNAL PROPERTY ASSOCIATION
REG NO: CPA/02/0435/A
HENDRICK MPHO NTHITE N.O.
SINAH MOSHIBODI MOTHAPPO N.O.
CECILIA LINDIWE MOIANE N.O.
MOIPOONE ELIZABETH SESOKO N.O.
SIDNEY MPHIKO N.O.
LETLHONGONOLO MOENG N.O.**

**1st Applicant
2nd Applicant
3rd Applicant
4th Applicant
5th Applicant
6th Applicant
7th Applicant**

And

**MINISTER OF AGRICULTURE, LAND REFORM AND
RURAL DEVELOPMENT
EPRAIM POO
LIZZY ZWANE
HANS LETANYE MODISELLE
MATSHIDISO SELINA DIALE**

**1st Respondent
2nd Respondent
3rd Respondent
4th Respondent
5th Respondent**

ANDREW SELLO PHETO
ELLIOT BUTSI
ROSE-SOSI DIBETSO

6th Respondent
7th Respondent
8th Respondent

JUDGEMENT

Delivered: This Judgment was handed down electronically by circulation to the Plaintiff's legal representatives and the Defendants by email and by being uploaded to the electronic file on CaseLines. The date and time for the hand down is deemed to be on 3 February 2026

Klopper, AJ

INTRODUCTION:

- [1] These were two applications before the court, which were heard jointly. These matters concern the procedural issue of security for cost. The question that came before this court in both matters was an application for security in terms of rule 47(3) of the Uniform Rules of Court.
- [2] It appears from the initial and later filed papers that some of the citations of the parties have changed, but nothing turns on this.
- [3] In both applications, the Applicants seek security against the Respondents in the amount of R800 000,00.
- [4] When the matters were argued before the court, the parties were duly represented by counsel.

THE FACTS:

- [5] The Applicants in both applications under case number 2024-109823 and 2025-026086 launched an application against the Respondents for security of cost in terms of rule 47(3) of the Uniform Rules of Court.
- [6] In case number 2024-109823, the Applicants seek the following order:

- 6.1. That the First to Sixth Respondents be ordered to furnish security to First to Eight Applicants in the sum of R800 000,00, alternatively, an amount to be determined by the Registrar of Court;
- 6.2. That the proceedings be stayed until such order is complied with;
- 6.3. Should the First to Sixth Respondents failed to furnish security within fifteen days from the order or determination by the Registrar, the First to Eight Applicants be granted leave to apply on the same page, duly amplified for appropriate relief as may be necessary.

[7] In case number 2025-026086 the Applicants seek the following order:

- 7.1. That the First to Seventh Respondents be ordered to furnish security to First to Seventh Applicants in the sum of R800 000,00 (eight hundred thousand rand) alternatively, to this sum such amount as shall be determined by the Registrar or the Court;
- 7.2. That the proceedings (final interdict) be stayed until such order is complied with;
- 7.3. Should the First to Seventh Respondents fail to furnish to First to Seventh Applicants with security within 15 days from the order or the determination by the Registrar, the First to Seventh Applicants be granted leave to apply on the same papers, duly amplified as may be necessary, for the dismissal of the proceedings (final interdict);
- 7.4. The Second to the Seventh Respondents be ordered to pay the cost occasioned by this application on an attorney and client scale, including cost occasioned by the employment of counsel.

[8] The Applicants in the present two applications for security for cost are also the Applicants in the main application under the respective case numbers.

[9] None of the Respondents in the applications under the above two case numbers filed any counterclaim/counterapplication in the respective applications.

RULE 47 OF THE UNIFORM RULES OF COURT:

- [10] The right of a party to request security for cost is found in rule 47 of the Uniform Rules of Court, which empowers a Defendant/Respondent to demand that the Applicant/Plaintiff furnish security before proceeding further with their claim. Rule 47 sets out a procedural framework, establishing when and how security for cost may be sought. This procedural framework is supported and enshrined by principles stemming from common law, and statutory provisions such as the Companies Act.
- [11] Security for cost has its roots not only in procedural rules, but in common law principles. Security for cost orders also engage the constitutional right to access for courts, enshrined in section 34 of the South African Constitution. The constitutional balancing ensures that security for costs is granted only where justified by the facts, preserving fairness without undermining access to justice.
- [12] An order for security is not automatic. The court has a discretion to grant or refuse it, considering the circumstances of the case.
- [13] Rule 47 enables a party, typically a defendant or respondent, to request that the opposing party furnish financial security to cover potential adverse costs, particularly where there is concern about the opposing party's ability to satisfy a cost order. However, only in circumstances where the Respondent in the main application files a counterclaim/counterapplication, will rule 47 entitle the applicant in the main application to seek security for costs in terms of rule 47 of the Rules. In such cases, the Respondent effectively becomes the "applicant" in respect of the counterapplication/claim, and the original applicant becomes the "respondent" thereto, entitling the original applicant to demand security under rule 47 if the applicable grounds are met.
- [14] Rule 47 does not explicitly limit who may demand security from whom but provides a general procedure for a party entitled to demand security to do so from another party. The entitlement arises from common law principles. The common law generally allows for security for cost to protect a party dragged into litigation from the risk that the initiating party cannot pay an adverse cost order.

Thus, security is typically demanded by Respondents from Applicants in the main proceedings.

[15] In **Louw v Superdoc One CC**¹ Grobler AJ stated the following in this regard:

“[11] *R47 deals with issues of procedure only. It is not regarded as substantive law as to the entitlement to ask for nor the obligation to provide said security for costs. (Fusion Properties 233 CC v Stellenbosch Municipality)*² *The common law dictates that an incola of the Republic cannot as a general rule be called upon to give security for costs [Van Zyl v Euobla Trust (Edms) Bpk*³*] and that is where the Plaintiff is an incola. Mr Maree was unable to refer me to any law, nor could I find any, which states that an incola defendant (which in the context of the counterclaim Superdoc is) can be asked to put up security for it to be allowed to continue with its defence to any claim.*

[16] *It doesn't strike me as odd as to the reason why there appears to be no such authority. All persons, big or small, natural or artificial brought to a court have the right to defend themselves. It will be a sad day indeed if only those able to put up security for a possible adverse cost order are allowed to exercise constitutional rights of equality before the law and access to courts Those rights are of course ensconced in s9(1) of our Constitution.”*

[17] Accordingly, I find that the Applicants in the main application under the above two case numbers cannot demand security of the Respondents in the main applications. The two applications for security in terms of rule 47 are thus without merit and unfounded in law and therefore must fail.

[18] In the circumstances, the following order:

1 The application brought under case number 2024-109823 is dismissed.

¹ [2025] ZAFSHC 89

² (unreported SCA case number 932/2019) dated 29 January 2021 at par 20

³ 1983 (3) SA 394 (T) at 396 B – 397 B

- 2 The application brought under case number 2025-026086 is dismissed.
- 3 The Applicants in both applications are ordered to bear the costs of the Respondents in relation to these two applications, to be taxed on scale C.



JA KLOPPER
ACTING JUDGE
HIGH COURT OF SOUTH AFRICA
GAUTENG DIVISION, PRETORIA

Appearances

Counsel for the Applicants: Adv BR Matlhape

Instructed by: Mokgotjana Attorneys

Appearance for Respondents: Adv RG Cohen

Defendants' attorneys: Govender Attorneys (Jothi) Inc

Date of Hearing: 4 November 2025

Date of Judgment: 3 February 2026