

REPUBLIC OF SOUTH AFRICA



IN THE HIGH COURT OF SOUTH AFRICA
GAUTENG DIVISION, JOHANNESBURG

Case Number: 2020/39915

(1)	REPORTABLE: NO
(2)	OF INTEREST TO OTHER JUDGES: NO
(3)	REVISED: YES
17 March 2026	
DATE	SIGNATURE

In the matter between:

MFANZILE THULEBONE MSIBI

First Applicant

RUPHIE HOMBA

Second Applicant

PAUL SPHIWE MOFOKENG

Third Applicant

ANGEL SIBISI

Fourth Applicant

THEMBA MABUNDA

Fifth Applicant

PATRICK NDLOVU

Sixth Applicant

THULANI CYPRIAN NGOBESE

Seventh Applicant

DANIEL SHIMZA KHOZA

Eighth Applicant

LINDIWE NKOSI

Ninth Applicant

THABILE DLADLA

Tenth Applicant

MOSES MKHABELA

Eleventh Applicant

THUSONG SECTIONAL COMMITTEE

Twelfth Applicant

**THE FURTHER RESIDENTS OF THUSONG
INFORMAL SETTLEMENT**

Thirteenth to Five Hundred and Ninth Applicants

and

EKURHULENI METROPOLITAN MUNICIPALITY

First Respondent

**EXECUTIVE MAYOR OF THE EKURHULENI
METROPOLITAN MUNICIPALITY**

Second Respondent

**MEMBER OF THE MAYORAL COMMITTEE FOR
HUMAN SETTLEMENTS, EKURHULENI**

Third Respondent

**HEAD OF DEPARTMENT: HUMAN SETTLEMENTS,
EKURHULENI**

Fourth Respondent

**MEMBER OF THE MAYORAL COMMITTEE FOR
WATER, SANITATION AND ENERGY, EKURHULENI**

Fifth Respondent

**HEAD OF DEPARTMENT: ENERGY, EKURHULENI
METROPOLITAN MUNICIPALITY**

Sixth Respondent

**CITY MANAGER, EKURHULENI METROPOLITAN
MUNICIPALITY**

Seventh Respondent

**MEMBER OF THE EXECUTIVE COUNCIL FOR
HUMAN SETTLEMENTS, GAUTENG**

Eighth Respondent

MINISTER OF HUMAN SETTLEMENTS

Ninth Respondent

DIRECTOR-GENERAL: DEPARTMENT OF ENERGY

Tenth Respondent

MINISTER OF ENERGY

Eleventh Respondent

ESKOM HOLDINGS LIMITED

Twelfth Respondent

JUDGMENT

CRUTCHFIELD J

- [1] The applicants seek declaratory relief against the Ekurhuleni Metropolitan Municipality, the first respondent, and various others ordering them to take

steps aimed at upgrading and providing electricity to Thusong Informal Settlement situated at Moleleki Extension 3 ("Thusong").

- [2] The first to seventh respondents, being various government and municipal departments and office holders, oppose the application. The eight to twelfth respondents do not participate in the application. Accordingly, references to "the respondents" hereunder refer to the first to seventh respondents.
- [3] At the time that the application came before me, the respondents had filed a supplementary affidavit in respect of which they sought the leave of this court. The applicants had delivered an answer to the supplementary affidavit. The respondents sought an opportunity to deliver a supplementary replying affidavit but delivered what they termed a "clarification affidavit." Whilst the applicants opposed the filing of the supplementary affidavits, the affidavits contain facts that are relevant and important to the just finalisation of the application. Accordingly, I intend to allow the supplementary affidavits to be admitted.
- [4] The first applicant together with the remaining applicants reside at addresses in Katlehong, Germiston.
- [5] The first respondent is cited as the local government authority having jurisdiction over Thusong and is responsible for the delivery of housing and municipal services to its residents.
- [6] The respondents allege that Thusong is located at Moleleki Extension 3, situated on Portion 81 of the Farm Rietfontein 153 IR, Germiston. The land on which Thusong is situated is owned by the Gauteng Provincial Government in terms of Title Deed T1372864/2001. This information appears on the feasibility report prepared by Isifingo Development (Pty) Ltd, which was commissioned by the Gauteng Provincial Government in August 2003.
- [7] At the hearing before me on 4 August 2025, the respondents submitted that **a portion of Thusong is situated on Erf 1792, the owner of which is a private juristic entity, Inventron (Pty) Ltd, which is not cited in the application and is not a party to the application.**

- [8] The applicants deny that Inventron (Pty) Ltd is the owner of the relevant land and submit that the Windeed search provided by the respondent in support of their submission refers to Erf 1792, which the applicants allege is a vacant field and not the land occupied by the applicants or any members of the Thusong community. According to the applicants, no one occupies the land comprising Erf 1792.
- [9] The matter stood down until 6 August 2025 on which date the respondents did not pursue the argument relating to Inventron Pty Ltd.
- [10] However, the respondents provided a Windeed search of Portion 81 of the Farm Rietfontein 153 IR. The search did not contain information on ownership of Portion 81 but stated that the local authority in respect of Portion 81 of the Farm 153 IR is Midvaal Local Municipality situated in the province of Gauteng.
- [11] Midvaal Local Municipality ("Midvaal") is not cited as a party to the application.
- [12] The applicants contend that Midvaal does not have a direct and substantial interest in the outcome of the application and there is no need for Midvaal to be joined as a party to the application. This is because Gauteng Province handed the UISP project of upgrading Thusong to the City of Ekurhuleni and not to Midvaal.
- [13] Furthermore, the first respondent is providing services to the inhabitants of the land described as Moleleki Extension 3.
- [14] The applicants submit that notwithstanding that local government is at the coal face of service delivery including having obligations to initiate and plan for the upliftment of communities, Midvaal does not need to be joined to the application.
- [15] The applicants overlook the fact that Thusong is situated within the geographical area and jurisdiction of Midvaal. That together with the fact that the application deals with and claims the provision of municipal services, makes Midvaal an interested party. Midvaal is entitled to know what transpires in respect of an informal settlement situated within its area of jurisdiction.

[16] Midvaal may choose not to oppose or to participate in the application but it is entitled to make an informed choice in that regard. This it can only do if it is joined as a party and provided with the papers in the application. In my view, Midvaal has a direct and substantial interest in the application notwithstanding that the project of upgrading Thusong was allocated to the first respondent. Midvaal is entitled to be joined as a party to the application.

[17] In the circumstances, I grant the following order:

1. The application is postponed.
2. The supplementary affidavits delivered by the respondents and the applicants are admitted.
3. The applicants are ordered to take the steps necessary to join Midvaal Local Municipality as a party to the application.
4. Each party will pay its own costs of the hearings on 4 and 6 August 2025.



CRUTCHFIELD J
JUDGE OF THE HIGH COURT
JOHANNESBURG

For the Applicants:

Mr L Mdabe and Ms D Makhaza instructed
by the Legal Advisory and Information
Centre (LAIC) Law Clinic.

For the Respondents:

Adv E N Sithole instructed by
M B Mabunda Inc.

Date of the hearing:

4 and 6 August 2025.

Date of the judgment:

17 March 2026.