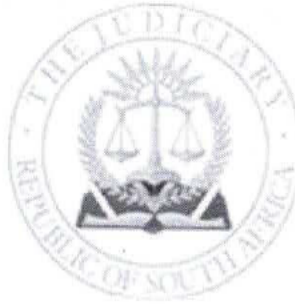


REPUBLIC OF SOUTH AFRICA



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

Case No: 136102/2024

Reportable: No
Of interest to other Judges: No
Revised: No

SIGNATURE

Date: 5 March 2026

In the matter between:

WINTERVELDT COMMUNITY AUTHORITY

Applicant

and

THE CITY OF TSHWANE METROPOLITAN MUNICIPALITY

Respondent

JUDGEMENT

MOOKI J

- 1 The applicant seeks an order that the respondent (the City) be compelled to implement remedial actions as directed by the Public Protector. The applicant is described in the founding affidavit as a community authority established in terms of section 2(1)(a)(11) of the Bantu Administration Act 68 of 1951. Counsel for the applicant mentioned to the Court that reference to "Bantu Administration Act" was an error, and that the correct statute is the "Bantu Authority Act, 68 of 1951."
- 2 The applicant is said to be governed in terms of a constitution. Clause 3 of the constitution records that "The Winter veldt (sic) Community Authority will be the only body to Administer and rule the farms Klippan, 5 morgan and 10 Morgan, situated in the magisterial district of Pretoria." The applicant consists of a chairperson and twelve councillors. The constitution further states that the applicant will see to it that laws, regulations and assignments are observed in connection with various measures, including health, education, control of obnoxious weeds, and the protection of public places and private properties, graves and historical objects.
- 3 The Public Protector issued Report No 32 of 2019/20, being a "Report on an investigation into allegations of improper conduct and maladministration during the expropriation of the Winterveldt plots and inadequate compensation for expropriated plots by the City of Tshwane Metropolitan Municipality." The report is a result of a complaint lodged on 23 October 2011 on behalf of plot owners at Winterveldt. The complaint was that the City did not follow due process in expropriating plots owned by the complainants. The further complaint was that the complainants did

not receive adequate compensation for the expropriation. The report has a table, listing plot owners and their respective plot numbers.

- 4 The Public Protector concluded that the City did not follow due process in carrying out the expropriations. Furthermore, the Public Protector concluded that there was no adequate compensation for the expropriation. The Public Protector then directed the City to undertake remedial actions. The remedial actions included the issuing of letters of apology to the complainants, the appointment of a property valuer to re-evaluate the expropriated plots, and that the complainants be compensated based on the outcome of that valuation.
- 5 The applicant says the City did not comply with the remedial actions as directed by the Public Protector, hence the present proceedings. The City opposes the application. The City raises the following preliminary points, namely:
 - 5.1 That the applicant lacks standing.
 - 5.2 Non-joinder of complainants identified in the report by the Public Protector.
 - 5.3 That the relief sought is in the nature of an interdict, and that the applicant has not met the requirements for an interdict.
 - 5.4 That the applicant relies on hearsay evidence.
- 6 There are two aspects to the point on standing. Firstly, that the applicant has no direct and substantial interest in the remedial action because the remedial

action is intended for the benefit of the complainants, not for the applicant. Secondly, that the applicant is not competent to seek to enforce compliance with remedial action directed by the Public Protector.

- 7 There was no replying affidavit on behalf of the applicant. The Court enquired from counsel for the applicant, during the hearing, as to what law or authority the applicant relied on for the relief being sought. Counsel informed the Court that he was unable to cite any authority.
- 8 The City's point on standing is sound. The applicant has not shown what interest the applicant has on the remedial action. The applicant does not even invoke its own constitution as showing a basis for the relief being sought.
- 9 The City referenced Rule 44 of the rules relating to investigation by the Public Protector as illustrative that the applicant has no standing. Rule 44 deals with the monitoring of remedial action to be taken. Rule 44(3) stipulates that the Public Protector may, where there is no compliance with remedial action, undertake various measures, including instituting contempt proceedings against the person who failed and/or refused and/or neglected to comply with the remedial action.
- 10 The applicant's failure to join the complainants, who are the subject of the remedial action directed by the Public Protector, is fatal. Counsel for the City submitted that the applicant would appropriate to itself the remedial action directed by the Public Protector. He referred the Court to the formulation of the relief in the notice of motion in this regard. The relief

sought includes that the City issue "letters of apology to the Applicant", and that the City see to it that, on receipt of a re-valuation report, to "ensure that the Applicant are properly compensated for its plots ...", and that the City consider identifying plots that have not been used by the City for the purpose they were expropriated for "and consider returning the land to the Applicant." The relief in the notice of motion is decidedly in the name of the applicant. The remedial measures directed by the Public Protector are for the benefit of complainants as detailed in the Public Protector's report.

11 It is unnecessary to address all the preliminary points raised by the City. The application must fail on the points dealt with by the Court.

12 I make the following order:

(i) The application is dismissed.

(ii) The applicant is ordered to pay costs, costs of counsel being on Scale B.



O MOOKI

JUDGE OF THE HIGH COURT
GAUTENG DIVISION PRETORIA

Counsel for the applicant:

C Opperman

Instructed by:

Cremer Attorneys

Counsel for the respondent:

V V Mabuza

Instructed by:

MB Mabunda Inc.

Date heard:

4 March 2026

Date of judgment:

5 March 2026