

IN THE HIGH COURT OF SOUTH AFRICA
GAUTENG DIVISION, PRETORIA



Case number: 079659/2024

Date of hearing: 17 March 2026

Date delivered: 27 March 2026

DELETE WHICHEVER IS NOT APPLICABLE
(1) REPORTABLE: ~~YES~~/NO
(2) OF INTEREST TO OTHERS JUDGES: ~~YES~~/NO
(3) ~~REVISED~~
27/3/26
DATE SIGNATURE

In the application between:

CHRIS NGUAPIA

LAZARUS SEKWALA MAILA

CHRIS MALANGANA

CALVIN MALEKANA

KUTLWANO KGOALE

PHMELO MODISE

THABO MARAKALLA

ABNER DZUNISANI MANGANYI

MZAMO TIKWAYO

MORENA TSHABALALA

MATEKA MOHAPI

First Applicant

Second Applicant

Third Applicant

Fourth Applicant

Fifth Applicant

Sixth Applicant

Seventh Applicant

Eighth Applicant

Ninth Applicant

Tenth Applicant

Eleventh Applicant

SBUSISO ISAAC MATHE

Twelfth Applicant

and

MICHAEL SANDLANA

First Respondent

LEONARD MODISE

Second Respondent

TSHEPISO MODISE

Third Respondent

INTERNATIONAL PENTECOST

HOLINESS CHURCH

Fourth Respondent

This judgment is handed down electronically by the Judge whose name is reflected herein, and is submitted to the parties or their legal representative by email. This order is further uploaded to the electronic file of CaseLines by the Judge or his Registrar. The date of this order is deemed to be 27 March 2026.

JUDGMENT

SWANEPOEL J:

[1] This application arises from a 10-year old dispute regarding the leadership of the fourth respondent (“the IPHC” or “the church”). The IPHC is one of the largest churches in South Africa. It was founded in 1962 by Reverend Frederick Modise. The spiritual leader of the church is known as the ‘Comforter’ and is regarded as having been anointed by God. The Comforter conducts services, weddings, funerals and other rituals within the church. The management of the affairs of the church is currently undertaken by an Executive Committee, in terms of an order granted by Kollapen J (as he then was) on 22 November 2016.

[2] According to article 8 of the church constitution the Comforter is appointed and prepared for service by his predecessor. Unfortunately, the previous Comforter passed away on 9 February 2016, allegedly, without appointing a successor. The result has been a long-standing feud between the first, second and third respondents, who all claim to have been appointed as Comforter. The order of Kollapen J referred the dispute regarding the third respondent's claim to have been appointed as Comforter to oral evidence. Almost ten years later, the matter has not yet been settled.

[3] The applicants all claim to be members of the church. They allege that there are now three factions in the church. They say that there is no certainty as to who is the true Comforter. They seek an order in the following terms in Part A of the application:

[3.1] That the first, second and third respondents (to whom I shall refer collectively as "the respondents" for convenience) be interdicted from holding themselves out to be the Comforter of the church;

[3.2] That the respondents be interdicted from performing any functions and powers designated for the Comforter;

[3.3] That the day-to-day management of the church shall vest in the Executive Committee appointed pursuant to the order of Kollapen J;

[3.4] That the Executive Committee shall, upon receipt of the order sought, call a special general meeting within three months at which meeting the Executive Committee is to call a meeting of the church Council and all church elders;

[3.5] At the meeting envisaged in [3.4] above it must be determined whether the Council and Executive Committee must be re-elected, whether the church must oppose the relief sought in Part B, and who should represent the church if Part B is opposed.

[4] I must state clearly, that this case is not about determining who the Comforter is. It is about finding a way forward for the church to resolve its disputes. The applicants cited the Executive Committee in the founding affidavit as the fifth respondent. It is, however, not cited as a party in the notice of motion, nor was the application served on it.

[5] There is also some disagreement between the parties as to whether or not the IPHC is a voluntary association that is governed by its 2007 constitution. That is the position of the applicants and the first and fourth respondents. The third respondent contends that the church was incorporated as a non-profit company ("NPC") in 2003, and that it is governed by its articles of association and memorandum of incorporation. The NPC has not been cited as a party.

[6] At the outset I must emphasize that a court must always pay due respect to the right of a religious community to govern its own affairs. The Supreme Court of Appeal confirmed this principle in *De Lange v Presiding*

*Bishop, Methodist Church of Southern Africa and Another*¹ where the court held:

"[31] It is so that our Constitution protects an individual's rights to practice his or her religion, as well as the rights of members of a particular religion to practice that religion in association with others and in conformity with the dictates, precepts, ethical standards and moral discipline which that faith exacts. Protecting the autonomy of religious associations is considered a central aspect of protecting religious rights. Indeed such protection has been described as 'vital to a conscience-honouring social order'. As the Constitutional Court held in *Minister of Home Affairs and Another v Fourie and Another (Doctors for Life International and Others, Amici Curiae); Lesbian and Gay Equality Project and Others v Minister of Home Affairs 2006 (1) SA 524 (CC)*... para [94]:

'In the open and democratic society contemplated by the Constitution there must be mutually respectful co-existence between the secular and the sacred. The function of the Court is to recognize the sphere which each inhabits, not to force the one into the sphere of the other.'

[7] In *New African Methodist Episcopal Church in the Republic of Namibia and Another v Kooper and Others*² the Court held that it did not have jurisdiction to determine ecumenical disputes. That is, in my view, an improper approach. A court has jurisdiction over church disputes. However, it should approach such cases with circumspection, and should not intervene in matters that are properly within the purview of the church. It is with the above principle in mind that I approach this judgment.

[8] The applicants deny that the deponent to the answering affidavit has authority to depose to the affidavit. A deponent is a witness in the case. A witness does not have to be authorized to provide evidence, whether by affidavit or oral evidence.

[9] The respondents have raised the following in limine points:

[9.1] The applicants' locus standi;

[9.2] That the NPC has not been joined as a party to the application;

[9.3] That the Executive Council has not been joined as a party to the application;

Locus standi

[10] The applicants contend that, although they have not attended church services since 2018, they are members of the church. Therefore, they say, they have locus standi as members of the church, and also by virtue of the provisions of subsections 38 (c) and (d) of the Constitution.

[11] The respondents say that by church custom any member that does not attend a service for a period of three months is regarded as a deserter and may only be admitted back into membership after having attended a 'forgiveness service'. Therefore, the respondents submit, the applicants are no longer members of the church and do not have standing in the matter.

[12] In reply to the respondents' averment, the applicants do not engage with the substance of the allegation, but merely deny what the respondents say. The applicants point out that the 2007 constitution does not contain a provision for which the respondents contend. However, the 2007 constitution does not prescribe any manner of terminating membership. It provides that disciplinary steps may be taken against members, but it does not prescribe what the rules are, nor what steps might be taken against a member, and it clearly leaves it open to the church to enforce customs and rules that have become entrenched within the church.

[13] Therefore, I cannot reject the respondent's version, and when I am unable to do so, I have to accept what they say.³ If the applicants' membership has terminated, then they have no entitlement to bring this application as members.

[14] The applicants have submitted that the first applicant, even if he were not a member of the church, is still an ordained priest. The first applicant did not rely on this contention in the founding affidavit to support his submission that he has locus standi. It is a late-comer to the case. Nonetheless, I do not believe that it has any merit. There is no evidence that the first applicant's alleged priesthood provides him with any standing in the church beyond that of any other member. There is also no evidence that his membership would not terminate if he were to stop attending church.

[15] Are the applicants entitled to act in the public interest by virtue of subsection 38 (d) of the Constitution? In *Giant Concerts CC v Rinaldo Investments (Pty) Ltd and Others*⁴ the Constitutional Court held:

33. “An own-interest litigant does not acquire standing from the invalidity of the challenged decision or law, but from the effect it will have on his or her interests or potential interests. He or she has standing to bring the challenge even if the decision or law is in fact valid. But the interests that confer standing to bring the challenge, and the impact the decision or law has on them, must be demonstrated.

34. Second, it means that an own-interest litigant may be denied standing even though the result could be that an unlawful decision stands. This is not illogical. As the Supreme Court of Appeal pointed out, standing determines solely whether *this* particular litigant is entitled to mount the challenge: a successful challenge to a public decision can be brought only if “the right remedy is sought by the right person in the right proceedings”.³⁹ To this observation one must add that the interests of justice under the Constitution may require courts to be hesitant to dispose of cases on standing alone where broader concerns of accountability and responsiveness may require investigation and determination of the merits. By corollary, there may be cases where the interests of justice or the public interest might compel a court to scrutinise action even if the applicant’s standing is questionable. When the public

interest cries out for relief, an applicant should not fail merely for acting in his or her own interest.

35. Hence, where a litigant acts solely in his or her own interest, there is no broad or unqualified capacity to litigate against illegalities. Something more must be shown."

[16] In my view there is no general public interest in this matter, more especially given the fact that the case concerns church matters. The applicants have not demonstrated that there is 'something more' to their interest in the case. I find that the applicants do not have locus standi in the case.

Non joinder

[17] The third respondent represents the NPC, which, he contends, is the true legal persona of the church. Therefore, he says, the NPC should have been joined as a party to the proceedings. The applicants deny that the NPC represents the church. That is, however, not the point. The fact is that the NPC represents a large portion of the church membership. It has an interest in the matter, and should have been cited. If the interdict were to be granted, the NPC will not have a Comforter. Furthermore, the members of the Church who operate under the auspices of the NPC have a clear interest in whether an interdict is granted against the third respondent.

[18] A further question is whether the Executive Council is not a crucial party to these proceedings. The applicants are, after all, seeking an order compelling the Executive Council to do certain things. In my view the Executive Council should have been joined to these proceedings.

[19] It would be open to the Court to postpone the proceedings in order for the aforesaid parties to be joined in the application. However, due to the view I take on the merits of the application, I do not intend to do so.

Merits

[20] On the merits I have the following concerns: Firstly, whether the applicants have demonstrated at least a prima facie right to an interdict. Secondly, whether the applicants have demonstrated that irreparable harm would ensue if the order were not granted? Thirdly, whether there is alternative relief available to the applicants. Fourthly, where the balance of convenience lies in either granting or refusing the order. Finally, whether the delay in bringing the application should result in the Court exercising its discretion against the granting of an interdict.

[21] As for the question whether the applicants have established a prima facie right, there is a dispute of fact regarding the circumstances under which the first to third respondents were appointed as Comforter. I cannot make any determination as to whether the appointment of any of them was proper or not. Consequently, I cannot say that the applicants have a prima facie right to the removal of any of the respondents, even

on an interim basis. In the absence of a prima facie right there can be no interim interdict.

[22] The applicants must also establish that irreparable harm would ensue if the order were to be refused. There is no financial threat to the church if the respondents were to remain as Comforters of the respective factions. The church's accounts have been frozen and its funds have been safeguarded.

[23] The applicants allege that the irreparable harm lies in the fact that they have been prevented from attending church due to incidents of violence, and that their right to religious freedom has been infringed. They also say that they have been excluded from the church community and prevented from interacting with fellow church members. They say that the ousting of the three Comforters would result in the Executive Committee being obliged to choose a new Comforter, which would, hopefully, resolve the rift within the church. As an aside, the applicant's belief that the executive committee can appoint a Comforter flies in the face of the church's constitution. The appointment of a Comforter lies squarely within the powers of the predecessor, not with the Executive Committee.

[24] The Constitutional Court dealt at length with the concept of irreparable harm in *City of Tshwane Metropolitan Municipality v Afriforum and Another*⁵. Writing for the majority Mogoeng CJ said:

"Before an interim interdict may be granted, one of the most crucial requirements to meet is that the applicant must have a reasonable

apprehension of irreparable and imminent harm eventuating should the order not be granted. The harm must be anticipated or ongoing. It must not have taken place already.”

[25] The Constitutional Court pointed out that ‘irreparable harm’:

“connotes a common-sensical, discernable or intelligible disadvantage or peril that is capable of legal protection. It is the tangible or intangible effect of deprivation or adverse action taken against someone. And that disadvantage is capable of being objectively and universally appreciated as a loss worthy of some legal protection, however much others might doubt its existence, relevance or significance.”⁶

[26] The applicants submit that they do not know who the true Comforter is, and that they therefore do not know where they should worship. This situation has been ongoing for at least eight years. The harm that the applicants allege has thus been ongoing for that entire period. I find it strange that, in all this time, the applicants have not found a spiritual home where they feel comfortable. The applicants’ decision not to worship in any of the factions is, in my view, their own. I do not believe that the applicants would suffer irreparable harm if the order were not to be granted.

[27] There is also a clear alternative to an interim interdict, which is that the Executive Council must amend the constitution to allow for the election of a Comforter, and it must elect a new Comforter, thereby,

hopefully, uniting the church. There is no evidence that the applicant have approached the Executive Council on this score.

[28] In my view, the balance of convenience also favours the refusal of the application. On the one hand the applicants say that they cannot attend their spiritual home. On the other hand, it must be borne in mind that there are thousands of church members who believe that the Comforter who leads their particular faction was appointed and anointed by God. Should the order be granted, those persons would be deprived of worshipping under the guidance of the Comforter whom they believe to be God-appointed. Mr Mphela (counsel for the third respondent) made an argument that I found to be compelling, namely that if the order were to be granted, then the religious rights of the members of the respective factions would be infringed. In the context of the doctrine of non-entanglement, which requires a Court to deal with church matters discreetly, the balanced of convenience overwhelmingly favours the respondents.

[29] Finally, the applicants' delay in bringing this application is troublesome. If there is in unexplained undue delay in bringing the application for an interim interdict, a Court may refuse the interdict in the exercise of its discretion. In *Juta & Co Ltd v Legal and Financial Publishing CO (Pty) Ltd*⁷ the Court held the following:

"If one bears in mind the long delays for which no explanation has been given, that as far back as December the applicant had numerous clear cases of copying in its possession, according to the letter written by the

applicant, and that up to now no action has been instituted, it seems that the applicant has erred in selecting this method, namely an application for an interdict pendente lite, but even if it was the appropriate procedure at the time, the applicant has, by reason of the facts set out above, forfeited its rights to this temporary relief. Had it issued summons at the time when the notice of motion proceedings were instituted, that trial could already have taken place. There is such a thing as the tyranny of litigation, and a court of law should not allow a party to drag out proceedings unduly.”

[30] The respondents have pointed out that the application was brought some years after the respondents took up the position as Comforter. The dispute arose in 2016, eight years before the application was launched. The applicants argue that there has been ongoing litigation to determine whether which culminated in the second respondent withdrawing his case on 4 July 2023. This application was launched on 18 July 2024, more than a year after the litigation was withdrawn.

[31] The applicants could have intervened in those proceedings in order to expedite the hearing of the matter. They could have brought an action to determine whether the first and third respondents were the properly appointed Comforters, and all that litigation could have been finalized some time ago. The delay in bringing this application is such that it would be appropriate to exercise my discretion against the granting of the order.

[32] In the premises the application must fail.

[33] I make the following order:

[33.1] Part A of the application is dismissed.

[33.2] The applicants shall pay the costs of the application jointly and severally, the one paying the other to be absolved, on Scale C.



**SWANEPOEL J
JUDGE OF THE HIGH COURT
GAUTENG DIVISION PRETORIA**

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Instructed by:	S Twala Attorneys Inc
Counsel for the third respondent:	Adv. R Mphela
Instructed by:	Mpoyana Ledwaba Inc
Heard on:	17 March 2026
Judgment on:	27 March 2026

¹ De Lange v Presiding Bishop, Methodist Church of Southern Africa and Another 2015 (1) SA 106 (SCA)

² New African Methodist Episcopal Church in the Republic of Namibia and Another v Kooper and Others (A293/2013) [2015] NAHCMD 104 (29 April 2015)

³ Plascon Evans Paints Ltd v Van Riebeeck Paints (Pty) Ltd 1984 (3) SA 623 (A)

⁴ Giant Concerts CC v Rinaldo Investments (Pty) Ltd and Others [2012] ZACC 28

⁵ City of Tshwane Metropolitan Municipality v Afriforum and Another 2016 (6) SA 279 (CC) at para [55]

⁶ At para [56]

⁷ Juta & Co Ltd v Legal and Financial Publishing Co (Pty) Ltd 1969 (4) SA 443 (C) at 445 C – F