



**IN THE LAND COURT OF SOUTH AFRICA  
HELD AT RANDBURG**

**CASE NO: No: LCC 74/2023**

**Court Online Case No: 2025-159524**

(1) REPORTABLE: Yes ☐ / No ☒  
(2) OF INTEREST TO OTHER  
JUDGES: Yes ☐ / No ☒

Date: 19 May 2026

In the matter between:

**SEHOALE COMMUNITY**

**APPLICANT**

**and**

**REGIONAL LAND CLAIMS COMMISSIONER,  
LIMPOPO**

**FIRST RESPONDENT**

**REGIONAL LAND CLAIMS COMMISSIONER,  
NORTH-WEST AND GAUTENG**

**SECOND RESPONDENT**

**CHIEF LAND CLAIMS COMMISSIONER**

**THIRD RESPONDENT**

**MINISTER OF RURAL DEVELOPMENT AND**

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ORDER

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1. The first to fourth respondents are directed, within 10 court days of this order, to deliver to the Registrar and to the applicant's attorneys a supplementary record in terms of Rule 35(1)(b), limited to the documents and electronic records relevant to the decision or decisions impugned in the review application under case number LCC 74/2023, insofar as they relate to the Bakgatla Ba Moseitlha claim and the applicant's asserted interest therein.
2. The record must include, to the extent that such documents exist and were before, considered by, generated for, or relied upon by the decision-maker:
  - 2.1 research reports;
  - 2.2 verification lists;
  - 2.3 Copy of affidavit of Kgoshi Makapan;
  - 2.4 compilation maps;
  - 2.5 Aktex reports;
  - 2.6 Copies of farm books;
  - 2.7 Copies of SG diagrams;
  - 2.8 Copy of the lodged claim by Sehoale community under KRP number R/5/124/453/9061;
3. To the extent that any document or category of documents referred to in paragraph 2 does not exist, was not before the decision-maker, is not in the possession or control of the first to fourth respondents, has already been delivered, or is withheld on a recognised legal ground, the first to fourth respondents must, within the same period, file an affidavit identifying the document or category concerned and explaining the basis for non-production.

4. The applicant may, within 15 court days after delivery of the supplementary record or explanatory affidavit, supplement its papers in the review application, if so advised.
5. The costs of this application are reserved for determination in the review application.

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## JUDGMENT

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### MIA J

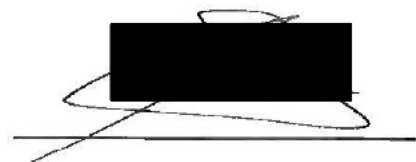
- [1] This is an interlocutory application in which the applicant seeks an order compelling the first to fourth respondents to deliver a record in terms of Rule 35(1)(b) of the Rules of this Court. The record sought relates to the decisions which are the subject of the pending review application under case number LCC 74/2023.
- [2] The respondents oppose the application. Their principal opposition is that the applicant lacks locus standi because, the applicant was not a party to the land restitution claim lodged by the fifth respondent, the Bakgatla Ba Moseitlha Community, under KRP 9161 and KRP 9168. They further contend that the applicant lodged its own claim under reference R/5/124/453/9061 in respect of Tweefontein 462 KR, Tweefontein 463 KR and Op Die Koppie 461 KR, and that such claim remains unprocessed by reason of the LAMOSA regime. The respondents also state, in the alternative, that the record has already been filed and that no further record exists.
- [3] The applicant's case, however, is not merely that it wishes to access documents relating to another community's claim. Its case is that the impugned decisions concern, or directly affect, its asserted interest in the Bakgatla claim and in the land described in the papers as Zandfontein 385 KR, Zandfontein 476 KQ, or Sandfontein/Sandfontein-Sehoale. The applicant contends that what was treated by the respondents as part of the Bakgatla claim in fact included, or ought to

have included, the applicant's interest. On that basis, the applicant seeks to review the administrative decision or decisions taken in relation to that claim.

- [4] For purposes of this interlocutory application, I am satisfied that the applicant has established sufficient standing to seek the Rule 35 record insofar as the record relates to the Bakgatla claim and the decision or decisions which the applicant seeks to review. Whether the applicant will ultimately establish its review grounds is not for present determination. At this stage, the question is whether the applicant is entitled to the material necessary to prosecute the review and to enable the reviewing court to determine what was before the administrator when the impugned decision was taken.
- [5] The respondents' denial that the applicant is entitled to the record does not adequately answer the applicant's complaint. Nor does the respondents' assertion that no further record exists, without a proper and particularised explanation, satisfactorily meet the applicant's case. The answering papers themselves reveal the central factual controversy namely the respondents contend that the fifth respondent's claim concerned Zandfontein 476 KQ, whereas the applicant contends that the relevant claim, properly understood, concerned Zandfontein 385 KR and was connected to Sandfontein. The respondents also record that the applicant complained that the investigation was conducted in respect of the wrong farm.
- [6] These discrepancies are not peripheral. They go to the heart of the review. The papers disclose uncertainty or inconsistency regarding dates, case numbers, property descriptions, and whether the relevant property was Zandfontein 385 KR, Zandfontein 476 KQ, or Sandfontein. The respondents' own summary of the applicant's case records the allegation that the claim form referred to "Sandfontein - Segoale", that the research report treated Sandfontein as Zandfontein 476 KQ, and that Zandfontein 476 KQ was then recommended as non-compliant.
- [7] In these circumstances, the reviewing court should not be required to decide the review on an incomplete or uncertain record. The purpose of the Rule 35 record

is to place before the court the material that served before the decision-maker, so that the legality, rationality and procedural fairness of the impugned administrative action may be assessed properly. Where there is a dispute about what land was claimed, by whom, under which claim, and on what basis the claim was accepted, rejected, investigated, or not investigated, the record assumes particular importance.

- [8] The relief should, however, be limited. It is not appropriate at this stage to grant an open-ended order requiring the production of every document in the respondents' possession. The proper order is one directed to the record relevant to the impugned decision or decisions in the review. If the respondents maintain that particular documents do not exist, were not before the administrator, are not in their possession or control, or are withheld on a recognised legal basis, they must say so on affidavit with sufficient particularity.
- [9] As to costs, both parties have achieved a measure of success. The applicant has established an entitlement to limited relief. The respondents' standing objection, while not upheld for purposes of this interlocutory application, was not wholly without substance. The appropriate order is that costs be reserved for determination in the review.

A handwritten signature in black ink, consisting of a series of loops and a long horizontal stroke, is positioned above a solid horizontal line.

**SC MIA**  
**Acting Judge of the Land Court**

**APPEARANCES:**

For the Applicant: Adv M Ramaili

Instructed by: Moloka Motshekga Attorneys

For the First to Fourth Respondents: Mr S Mathebula

Instructed by: The State Attorney Pretoria

Heard on: 14 May 2026

Delivered on: 19 May 2026