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**IN THE HIGH COURT OF SOUTH AFRICA
FREE STATE DIVISION, BLOEMFONTEIN**

Not reportable
Case no: 2853/2025

In the matter between

PARATLANE MOTLOUNG

FIRST APPLICANT

AZAEI NHLAPO

SECOND APPLICANT

SHASHAPA MOTAUNG

THIRD APPLICANT

INTERIM CENTRAL EXECUTIVE COMMITTEE

FOURTH APPLICANT

MAP16 CIVIC MOVEMENT

FIFTH APPLICANT

and

SELLO MOTHOLO

FIRST RESPONDENT

MUTLANYANE SEKETE

SECOND RESPONDENT

LARRIGAN MOFOKENG

THIRD RESPONDENT

TSHOHISE MOLOI

FOURTH RESPONDENT

MOROESI NTSALA

FIFTH RESPONDENT

THABO KHABOTLE

SIXTH RESPONDENT

MATSHEPO MOKUBUNG

SEVENTH RESPONDENT

ABSA BANK LIMITED

EIGHTH RESPONDENT

Neutral citation: *Motloung and Others v Motholo and Others* (2853/2025) [2026]
ZAFSHC 311 (22 March 2026)

Coram: Reinders J

Heard: 4 December 2025

Delivered: This judgment was handed down in open court on 22 May 2026 and circulated electronically to the parties' representatives by email and released to SAFLII.

Summary: Urgent application – provisional order (rule *nisi*) – dispute within political movement – applicants sought final interdictory and declaratory relief – applicants not entitled to final relief on motion – principles restated.

ORDER

- 1 The rule *nisi* dated 6 June 2025 is not confirmed but dismissed.
 - 2 Paragraphs 3, 4, 5, 6 and 10 of the order of 6 June 2025 are set aside.
 - 3 The counter-application is dismissed.
 - 4 No order as to costs.
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JUDGMENT

Reinders ADJP

[1] This is, amongst others, the extended return day of a provisional order (the ‘court order’) granted on 6 June 2025. The application was instituted on an urgent *ex parte* basis, in terms of which the applicants sought wide-ranging interdictory and declaratory relief (the main application).

[2] The fifth applicant is the MAP 16 Civic Movement (MAP 16), a voluntary association and duly registered political party, with its principal place of business situated in Phuthaditjhaba. The fourth applicant is the alleged Interim Central Executive Committee (ICEC) of MAP 16. For ease of reference, the first to seventh respondents are collectively referred to as “the respondents”, while the first to third applicants are referred to as “the applicants”. It is common cause that both the applicants and the respondents are members of MAP 16, albeit in different and disputed capacities. The eighth respondent is ABSA Bank. The dispute between the parties arises principally from an assembly held at the venue Robala Lodge (Qwaqwa) on 30 May 2025 and the resolutions and consequences emanating therefrom.

[3] The relief claimed by the applicants in their notice of motion was granted verbatim in the order of 6 June 2025 and is quoted as such (save for the omission of the particulars of the respondents for purposes of services via telephonic whatsapp

communication):

'1. The Applicants non-compliance with the prescribed requirements pertaining to form, process, service and time periods be condoned and that this matter be heard as one of urgency as envisaged in Rule 6(12) of the Uniform Rules of Court.

2. A rule *nisi* [is] issued, returnable on **24 July 2025 at 09h30** or as soon thereafter as the Applicants' legal representatives may be heard, alternatively such date as the Court determines in terms of case management directives, calling upon the Respondents to show cause, if any, why the following orders should not be granted as final orders;

2.1 It is declared that the notice calling for the MAP 16 Cadres Assembly on 30 May 2025 is unlawful, invalid and of no force and effect.

2.2 The Cadre Assembly held by the Respondents on **30 May 2025** at Robala Lodge in Qwaqwa, Free State Province violated the MAP 16 Civic Movement Constitution and consequently all the decisions / resolutions and/or outcome adopted there, to be unlawful, null and void.

2.3 The decision at the Cadre Assembly on 30 May 2025 at Robala Lodge in QwaQwa, Free State Province to elect the MAP 16 Central Executive Committee in line with the list attached as "**FAL**" is in violation of the MAP 16 Civic Movement Constitution and invalid and set aside;

2.4 The 1st to 7th Respondents are prohibited from acting as the duly elected members of the central executive committee of MAP 16 Civic Movement;

3. The 1st to 7th Respondents or any person acting on their behalf shall restore the 1st and 2nd Applicants as signatories in respect of the 5th Applicant's ABSA bank account number: 9[...];

4. The 1st to 7th Respondents are interdicted and/or restrained from removing the 1st and 2nd Applicants as signatories of the 5th Applicant's bank account held by the ABSA Bank;

5. The 8th Respondent is directed to take all reasonable steps to reinstate the 1st and 2nd Applicants who were removed as signatories of the 5th Applicant's bank account held by the 8th Respondent;

6. The 8th Respondent is directed to take reasonable steps to remove the unauthorised persons who were installed as signatories of the bank account held at ABSA Bank by the 5th Applicant.

7. The orders in paragraphs 2.1 to 6 above shall operate as interim orders with immediate effect pending the return date.

8. Service of the Court order:

8.1-8.9 . . .

Other Interested Parties:

8.10 The Applicants are authorised and directed to publish a notice in accordance with the notice of motion hereto informing all interested parties of this application and of the relief moved for and inviting them to join should they prefer to do so.

9. The Respondents are entitled to anticipate the return date after 24 hours written notice to the Applicants.

10. The 1ST to 5th Respondents shall pay the costs of this application on an attorney and own client scale, jointly and severally, the one paying the other to be absolved.'

[4] The matter was postponed several times with the rule *nisi* concomitantly extended. The respondents opposed the relief claimed and filed a counter-application (the counter-application), wherein they move for the following relief:

'1. The order granted *ex parte* on 6 June 2025 is reconsidered;

2. The following parties are joined to the proceedings as respondents:

2.1 MAP 16 Civic Movement NPC (registration number 2020/851671/08);

2.2 Johannes Mphafi Mphara, in his official capacity as director of MAP 16 Civic Movement NPC;

2.3 Mongezi Jacob Malaone, in his official capacity as director of MAP 16 Civic Movement NPC;

2.4 Masekote Edith Tolofi, in her official capacity as director of MAP 16 Civic Movement NPC;

3. The rule *nisi* issued on 6 June 2025 is discharged;

4. Prayers 3, 4, 5, 6 and 10 of the order of 6 June 2025 are set aside;

5. The First, Second and Third Applicants, jointly and severally, and/or the Applicants' attorney, are ordered to pay the costs of the application (including the Respondents' opposition) on an attorney and client scale:

6. The First and Second Applicants are interdicted from accessing the funds of the MAP 16 Civic Movement NPC held at ABSA in account number 9[...];
7. The First and Second Applicants are interdicted from presenting to others, including the media, that they are elected officials of the Interim Central Executive Committee of the MAP16 Civic Movement, and they are prohibited from acting or speaking on behalf of the Interim Central Executive Committee and/or the MAP 16 Civic Movement;
8. The First and Second Applicants are interdicted from performing any actions, and/or taking any decisions, as if they are still Convenor and Coordinator of the Interim Central Executive Committee of the MAP 16 Civic Movement;
9. The First and Second Applicants are prohibited from using the name of the Interim Central Executive Committee and/or the MAP 16 Civic Movement for their personal benefit.
10. The First, Second and Third Applicants, jointly and severally, and/or the Applicants' attorney, are to pay the costs of the counter-application on an appropriate punitive scale;'

[5] The main application is opposed by the respondents on several grounds as set out in the answering affidavit. Firstly, it is contended that the applicants failed to establish a case for urgency, particularly given that the application was brought on an *ex parte* basis. Secondly, the respondents take issue with the nature of the relief granted in terms of the court order. It is submitted that, although the order is couched as incorporating a rule *nisi*, paragraphs 3, 4, 5, 6 and 10 (the latter pertaining to a punitive cost order) were granted in final terms, and do not form part of the interim relief envisaged under prayer 2.

[6] The respondents further challenge the authority of the second applicant to depose to the founding and replying affidavits on behalf of all the applicants, as well as to have instituted these proceedings. In this regard, it is contended that the resolution annexed to the founding papers appears to be solely in respect of the fourth applicant. In addition, the respondents raise several preliminary points (in limine), including challenges to the *locus standi* of the fourth applicant, the propriety of service upon the respondents, the adequacy of the 'publication' of the notice of motion, and the alleged non-joinder of MAP 19 Civic Movement as a company. These issues fall to be determined.

[7] The second applicant, averring that he is the Co-ordinator of MAP16 deposed to the founding and replying affidavit, stating that the application revolves 'solely around the propriety of the Cadre Assembly convened by the 1st to 7th Respondents on 30 May 2025'. According to the deponent, the first applicant is the convenor of the ICEC with whom he is the co-signatory in respect of the banking account held by Absa (the account), averred to be that of MAP16. The deponent set out the background to the formation of MAP16 and annexes a copy of its constitution (the constitution). According to him, it 'came as a surprise' when the first to fourth respondents convened what they termed a Cadre Assembly and proceeded to conduct the election of the MAP16 Central Executive Committee. He complains that such an assembly is not provided for in the constitution, and the persons who participated therein as delegates have not been elected at a properly constituted branch general meeting. Moreover, the electing of office bearers elevated the gathering to a Central Convention and the respondents are rogue members who embarked on the establishment of 'parallel structures'. The deponent furthermore submits that himself and the first applicant were unlawfully removed as signatories to the account with the respondents having no authority to have done so. He complains that this came as a challenge when he and his fellow applicants could not access funds of the organization to settle legal fees in relation to this application. It is submitted that the application is manifestly urgent due to the latter position and also because of certain photos and videos posted of him on social media platforms, which conduct infringes his constitutional rights to dignity.

[8] The deponent to the answering affidavit is the second respondent. He avers that that he is the spokesperson of the ICEC (as he had been since its formation), and explains that MAP16 (duly registered as MAP16 NPC with Registration Number 2020/851671/08 on 6 November 2020) is a non-profit company with a Board of Directors (the Board) who has oversight and fiduciary duties in respect of the finances of MAP16 and its structures. According to him, the current directors are interested parties to the proceedings, and he is duly authorized to depose to the affidavit on behalf of the company. A resolution signed by the said directors is annexed together with confirmatory affidavits of the four directors of whom only the fifth respondent was cited by the applicant. It is further explained that that the company originally had six directors, of whom the first and second applicants had since been removed as directors at a Board

meeting held on 11 April 2025 which was properly called and constituted. A copy of the invitation, the minutes, resolution and attendance register is annexed to the papers.

[9] The deponent states that the said banking account is not that of the fifth applicant, but rather of the company, of which the first and second applicants were indeed the signatories prior to the Board meeting. However, the main issue on the agenda at the meeting of 11 April was the removal of directors of the company. The first and second applicants' lack of diligence as directors, their failure to attend to Board meetings or provide apologies for their absence and their refusal/and or failure and/or neglect to comply with their fiduciary duties to file South African Revenue Service (SARS) returns and annual financial statements, led to their removal as directors. The deponent annexes proof of such SARS communication and states that, after a request was forwarded by the secretary to the first and second applicants to comply with their duties in this regard, offence was taken by the first and second applicants and charges were even laid by them against such secretary. It is explained that the company was facing deregistration as a result of the said failure to prepare the mentioned annual financial statements. This, furthermore, led to the account with Absa becoming dormant as the registered profile was linked to such account. At a Board meeting held on 17 May 2025, the names of the first and second applicants were subsequently removed as the company's representatives in the account held with Absa. According to the deponent, the situation was remedied by the remaining directors through proper CIPC processes after the first and second applicants were removed as directors and signatories. New signatories of the said banking account were appointed.

[10] The respondents submit that the complained-of general constituency meeting (termed Cadre Assembly, a term originating from the African National Congress to which members of MAP16 previously belonged) held on 30 May 2025 was properly convened and adequately publicised. Notice of the meeting was disseminated timeously via a local radio station and through a WhatsApp platform, inviting all members of MAP16 to attend. The meeting was convened by the first, third, and fourth respondents in their capacities as ward coordinators. This followed correspondence addressed by the aforementioned respondents to the Board, in which they expressed their dissatisfaction with the ICEC.

The matter was subsequently considered at a duly constituted Board meeting held on 25 March 2025, during which the Board granted permission for the convening of a general constituency meeting. The decision to convene the meeting also arose after multiple unsuccessful requests had been made to the ICEC – of which the first and second applicants were, at the time, the convenor and coordinator – to call and conduct a Central Convention as required in terms of the organisation's constitution.

[11] At the general constituency meeting on 30 May 2025, representatives from seventeen wards were present. During this meeting, it was resolved that a new ICEC would be elected, on the basis that the fourth applicant, who had been in power for more than six years since the inception of the movement, had failed the organisation. Resolutions were duly adopted, and new officials were elected. Among those elected was the third applicant, who assumed the position of chairperson of the ICEC. A detailed account of the procedures followed during the meeting and the conduct of the elections is provided, supported by annexures, including a copy of the minutes. The deponent affirms that both the meeting and the elections were conducted in accordance with proper procedure.

[12] In their replying affidavit, receipt of the invitation to the board meeting of 11 April 2025, the minutes and the resolution taken of their removal as directors, are denied. It is also denied that the first and second applicants were removed as signatories at a board meeting held on 17 May 2025. In reply to the respondents' averments of the first and second applicant's failure to comply with SARS prescripts, the company facing deregistration as a result hereof and the banking account having been rendered dormant as a further result, the deponent states that such is noted. The applicants persist that the convening of the assembly on 30 May 2025 and the results that followed, were unlawful.

[13] In terms of the court order of 6 June 2025, the following orders had interim effect: the notice calling for the MAP16 Cadre Assembly of 30 May 2025 was declared unlawful, invalid and of no force and effect; an order was granted that the assembly

violated the constitution of MAP 16 as a consequence whereof all the decisions/resolutions and/or outcome adopted there was unlawful, null and void; the decision to elect the Central Executive Committee (CEC) in line with the names attached is in violation of the constitution and is invalid and set aside, and the respondents are prohibited from acting as the duly elected members of the CEC of MAP16. These orders were to operate only in the interim but with immediate effect pending the return date. The respondents were called upon to show cause why these orders should not be made final, which the respondents did in filing their answering affidavit. Further relief was granted in respect of the banking account, and a punitive cost order was granted against the respondents. The respondents submitted that their opposition relates to a reconsideration of the orders granted, with relief claimed in their counter-application.

[14] Where an applicant moves for final relief in motion proceedings a court in essence has to adjudicate the matter on the respondent's version together with such facts averred by the applicant which is not denied, unless the version of the respondent is so far-fetched and untenable that it can be rejected outright.¹ Applying the aforementioned principles, it is evident to me that the application for final relief by the applicants cannot succeed. The version of the respondents is not far-fetched or untenable at all. On the contrary, it seems to me that had the respondents not acted in the manner they did, the company would have been de-registered for failure to file tax returns and annual financial statements – a fact which had not been disputed by the applicants. That being so, there is good reason to believe, as averred by the respondents, that the first and second applicants failed to attend board meetings or provide apologies for their absence. It seems highly improbable, had the respondents captured the company, they would have allowed the third applicant to be elected as the chairperson. In my view therefore the application cannot succeed and the provisional order should be uplifted.

[15] The respondents criticized the order granted on 6 June 2025 and argued that paragraphs 3, 4, 5, 6 and 10 constituted final orders which were not part of the rule *nisi*.

¹ See: *Plascon-Evans Paints (TVL) Ltd. v Van Riebeck Paints (Pty) Ltd.* (53/84) [1984] ZASCA 51; [1984] 2 All SA 366 (A); 1984 (3) SA 623; 1984 (3) SA 620 (21 May 1984)

It is common cause that these orders were granted *ex parte* and in their absence. I have no doubt, as was argued on behalf of the applicants, that these orders were intended to be provisional orders. I likewise can comprehend the viewpoint of the respondent and for sake of clarity will grant the request to set those orders aside.

[16] Once the order of 6 June is set aside, there is in my view no relief as requested by the respondents that needs to be granted. I am, in any event, concerned whether, save for the second applicant, the other applicants are properly before court or authorized the application. The respondents challenged the authority of the second applicant to depose to any of the affidavits on behalf of those applicants and, I must say, the resolution attached to the founding affidavit would appear, at best, as authority to depose to the affidavit by the fourth applicant. I am therefore, for purposes of the counter-application, not satisfied that the remainder of the applicants are properly before court, and to grant orders against them. The aforementioned uncertainty will therefore have an effect on the cost orders I intend to make.

[17] In my view and in my discretion, I have concluded that it will be proper to make no cost order at all. The following orders will therefore issue;

- 1 The rule *nisi* dated 6 June 2025 is not confirmed but dismissed.
- 2 Paragraphs 3, 4, 5, 6 and 10 of the order of 6 June 2025 are set aside.
- 3 The counter-application is dismissed.
- 4 No order as to costs.

JUDGE OF THE HIGH COURT

Appearances

For the Applicants:

Instructed by:

S Ngombane

PJ Maselela Attorneys

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For the First to Seventh Respondents:

Instructed by:

GSJ Wright

Machini Motloung Inc.

Bloemfontein.