REPUBLIC OF SOUTH AFRICA

IN THE HIGH COURT OF SOUTH AFRICA
GAUTENG DIVISION, JOHANNESBURG

Case Number: 2026-115932

(1) REPORTABLE: NO
(2) OF INTEREST TO OTHER JUDGES: NO
(3) REVISED: YES

[redacted]

27 May 2026
DATE

SIGNATURE

In the matter between:

DR NOMALADY MILDRED ZULU	First Applicant
ULTIMATE GOAL INVESTMENTS CC	Second Applicant
and	
MOHAVI TECH (PTY) LTD	First Respondent
SME MARKETING CC	Second Respondent
MOHAVI UGI MINING (PTY) LTD	Third Respondent
THE COMPANIES AND INTELLECTUAL PROPERTY COMMISSION	Fourth Respondent

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JUDGMENT

CRUTCHFIELD J

[1] The applicants, Dr Nomalady Mildred Zulu and Ultimate Goal Investments CC, the first and second applicants respectively, approach this court urgently for the following relief, essentially:

a. That the first, second and third respondents be interdicted from proceeding with or giving effect to a meeting of shareholders of the third respondent, Mohavi UGI Mining (Pty) Ltd, scheduled to take place on Thursday, 28 May 2026, at which it is proposed to consider and pass a resolution to remove the first applicant as a director of the third respondent in terms of section 71(1) and 71(2) of the Companies Act, 71 of 2008 ("the Act"), and relief ancillary thereto.

[2] The respondents, Mohavi Tech (Pty) Ltd and SME Marketing CC, the first and second respondents respectively ("the respondents") oppose the application both on urgency and in respect of the substantive relief claimed by the applicants. The third and fourth respondents do not oppose or participate in the application.

[3] The applicants rely in respect of the urgency of the application upon the case of *East Rock Trading 7 (Pty) Ltd & Another v Eagle Valley Granites (Pty) Ltd & Others*[1]. The applicants submit that they complied with the requirements for urgency articulated in *East Rock*.

[4] The notice in respect of the meeting in terms of s71(1) of the Act was signed on 19 May 2026 in respect of the meeting to be convened on Thursday, 28 May 2026, a date chosen by the respondents, leaving the applicants with only a short period of time in which to take action.

[5] The applicants submit that the financial freezing of the first applicant out of the financial affairs of the company, the third respondent, ordered by the KwaZulu-Natal High Court, constrained the applicants' ability to act sooner than they did in launching this application.

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[1] *East Rock Trading 7 (Pty) Ltd & Another v Eagle Valley Granites (Pty) Ltd & Others* 2011 ZAGPJHC 196 (23 September 2011) ("*East Rock*").

[6] The applicants allege that if the application is not heard before 28 May 2026, the applicants will be unable to obtain substantial redress in due course. In the circumstances, the applicants contend that the matter is urgent as envisaged in rule 6(12) of the rules of this court.

[7] The first and second respondents deny that the application is urgent.

[8] In order for the application to be determined urgently, the applicants are obliged to demonstrate that they will not be afforded substantial redress at a hearing in due course.

[9] The first and second respondents seek to remove the first applicant in terms of s71(1) and (2) of the Act. There is no argument that the first and the second respondents have not complied with the provisions of s71(1) and (2) of the Act, in terms of which the shareholders, upon notice to the affected director, may remove a director at a shareholders' meeting by way of an ordinary resolution, being by way of a simple majority.

[10] The first applicant has made representations in advance of the convening of the meeting. Whilst one does not know what the outcome of the meeting will be, the Act requires that the first applicant be permitted to present her case to the shareholders prior to the vote at the meeting. Assuming, pursuant to the submissions of the applicants, that the shareholders' majority does vote against the first applicant and thus in favour of the removal of the first applicant as a director, the first applicant has remedies available to her.

[11] Those remedies include that the respondents have undertaken to provide reasons after the vote. Thus, the applicants can approach this or any other court having jurisdiction, in order to challenge the outcome of the meeting together with the reasons of the shareholders, assuming that there is a legal basis for the first applicant to do so.

[12] Secondly, the applicants have statutorily entrenched remedies available to them in terms of s71(9) of the Act, in the event that the shareholders vote for the removal of the first applicant at the meeting. Accordingly, there is statutorily

entrenched redress available to the first applicant in terms of s71(9) of the Act in the event that the vote goes against the first applicant.

[13] The case law[2] is clear that an impugned director is not entitled to reasons for the proposed removal of the director by the shareholders prior to the decision being taken by the shareholders at the meeting.[3] In addition, *Miller* is relevant to the facts before me in that that court made clear that a director serves at the behest of the shareholders.

[14] The shareholders are entitled to remove a director where they no longer support the director, as is allegedly the situation in the matter before me. In this regard, there are allegations that the first applicant has been selling coal for her personal benefit, outside of the provisions of the joint venture agreement concluded between the parties.

[15] A director may not insist on remaining as a director in circumstances where the shareholders, as in the case before me, no longer trust that the director can conduct the affairs of the company as required.

[16] Accordingly, the shareholders are entitled in terms of s71(1) and (2) to take the steps provided in the Act for the removal of the first applicant as a director. They do not have to give the applicants reasons in advance of the vote for the decision to seek the removal of the director at the meeting.

[17] The first applicant is not entitled to insist on remaining as a director – there is no such right in the contracts before me. The first and second respondents are within their rights to proceed in terms of s71(1) and 71(2) of the Act.[4]

[18] Assuming that the shareholders vote in favour of the resolution for the removal of the first applicant as a director at the meeting, that will not result in the exclusion of the first applicant from the management affairs of the company, This is because the joint venture agreement to which the first applicant is party gives to the first applicant the right to nominate two directors. Accordingly,

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[2] *Miller v Natmed Defence (Pty) Ltd & Others* 2022 (2) SA 554 (GJ) ("*Miller*") at [39[and [41].
[3] *Miller v Natmed Defence (Pty) Ltd & Others* 2022 (2) SA 554 (GJ) at [39[and [41].
[4] *Weir v Wiehahn Formwork Solutions (Pty) Ltd & Others* 2025 (4) SA 637 (WC) ("Weir") at [30] – [36].

assuming that the the vote goes against the first applicant and in favour of her removal as a director, that will not give rise to the spectre of exclusion of the first applicant from the company as referred to in *East Rock*.

[19] *McMillan NO v Pott & Others*[5] is distinguishable on the facts of *McMillan* from the matter before me. Specific facts existed in *McMillan* that served to preserve McMillan's position within the company. The equivalent is not the position in this matter before me.

[20] Insofar as the applicants relied on the case of *Mamokebe Investments (Pty) Ltd v Sokhela & Others*,[6] that the agreements relevant to this application are void, that is not the case for determination on the papers before me.

[21] In the circumstances, I am of the view that the applicants have not demonstrated that they will not be afforded substantial redress in due course and the matter stands to be struck from the roll for lack of urgency with costs.

[22] As to the award of punitive costs, I do not consider that punitive costs are warranted in this matter. However, the issues are of some complexity and the costs, including the costs of counsel, will be on scale C.

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

1. The application is struck off the roll for lack of urgency with costs, including the costs of counsel, on scale C.

[redacted]

CRUTCHFIELD J
JUDGE OF THE HIGH COURT
JOHANNESBURG

[5] *McMillan NO v Pott & Others* 2011 (1) SA 511 (WCC) at [40].
[6] *Mamokebe Investments (Pty) Ltd v Sokhela & Others* (2026/039448) [2026] ZAGPPHC 293 (10 April 2026).

For the Applicants:	Adv Forere instructed by Mthembu Sibanda & Associates.
For the First and Second Respondents:	Adv L Peter instructed by MVMT Attorneys.
Date of the hearing:	26 May 2026.
Date of the judgment:	27 May 2026.