



OFFICE OF THE CHIEF JUSTICE
REPUBLIC OF SOUTH AFRICA

IN THE HIGH COURT OF SOUTH AFRICA
MPUMALANGA DIVISION MIDDELBURG (LOCAL SEAT)

Case Number: 2025-127932

BEFORE THE HONOURABLE JUSTICE: SCHUTTE AJ

DATE: 05 AUGUST 2026

In the matter between

STRATHRAE COLLIERY (PTY) LTD

APPLICANT

and

THULANI ELVIS THUKWANA

FIRST RESPONDENT

JACOB MPYAKHE SIBIYA

SECOND RESPONDENT

SIPHESIHLE AUSTIN NKOSI

THIRD RESPONDENT

ANDILE MFNAFUTHI NDWANDWE

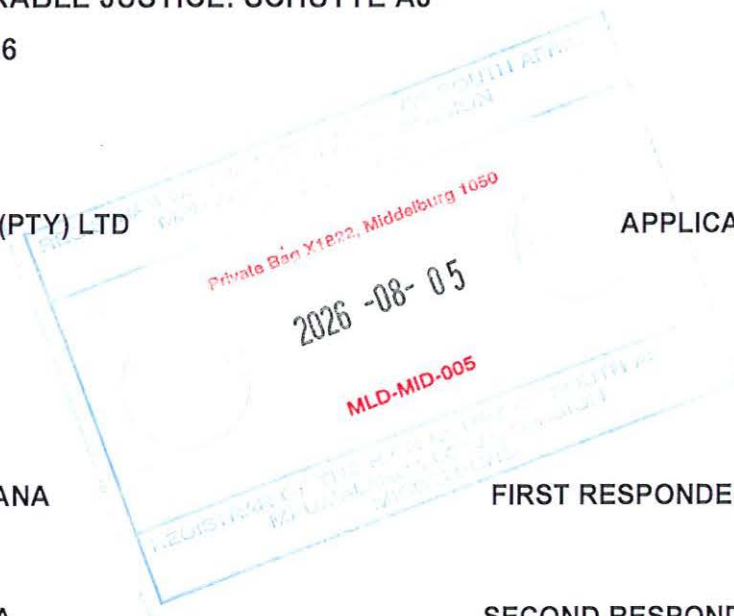
FOURTH RESPONDENT

NHLANHLA SIYABONGA MAHLANGU

FIFTH RESPONDENT

PERSONS UNLAWFULLY TRESPASSING ON

AND THREATENING NEAR FARM STRATHRAE



496, JS MPUMALANGA

SIXTH RESPONDENT

SOUTH AFRICAN POLICE SERVICE

SEVENTH RESPONDENT

ORDER

The Judge heard the matter on **22 JULY 2026** and electronically circulated the judgment on **05 AUGUST 2026** and gave an order as follows:

[46] therefore make the following order:

[1] For the reasons set out above, the rule nisi is discharged and the application dismissed with costs on an attorney and client scale, which costs exclude the costs taxable under the order granted by this Court on 7 August 2025.





IN THE HIGH COURT OF SOUTH AFRICA
MPUMALANGA DIVISION, MIDDELBURG

CASE NO: 2025-127932

- (1) Reportable: Yes/No
(2) Of interest to other Judges: Yes/No
(3) Revised: Yes/No


SIGNATURE

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496, JS MPUMALANGA

SIXTH RESPONDENT

Delivered: This judgment was handed down electronically by circulation to the parties' legal representatives by email. The date and time for hand-down is deemed to be 05 August 2026 at 10h00.

JUDGMENT

Schutte AJ

Introduction

[1] In our division, courts are regularly called upon to resolve legal battles between mining companies and their nearby local communities. This is one such case.

Litigation history

[2] In August 2025, the urgent court granted an interim interdict in favour of Strathrae Colliery (Pty) Ltd (the applicant) against, amongst others, four identified individuals. They are Mr Thukwana (the first respondent), Mr Nkosi (the third respondent), Mr Ndwandwe (the fourth respondent), and Mr Mahlangu (the fifth respondent). The urgent court also granted an interdict against unknown trespassers (cited as the sixth respondent) and ordered the police (cited as the seventh respondent) to enforce the order in conjunction with Strathrae's security company. No order was granted against Mr Sibiya (the second respondent) because, by then, Strathrae had withdrawn its application against him.

[3] Going forward, in this judgment, when I refer to the respondents, I will mean the four remaining individuals identified by name. For ease of reading, I refer to Strathrae as the mine.

The mine's founding papers

[4] The mine's founding papers constitute the first pleading and the factual basis on which the mine's application rests. It is therefore apposite that I begin by discussing it.

Mr Mabilo's founding affidavit

[5] Mr Mabilo, a director of the mine, states the following in his founding affidavit:

[5.1] The mine held access and mining rights to and over the farm on which it mines. These rights constituted the mine's clear right to, without hindrance, conduct mining activities on the farm. Mr Thukwana "and potentially various of the other Respondents are known to [the mine's employees], as this is not the first occasion on which the aforementioned persons have engaged in unlawful activities by intimidating and making unlawful demands of mining operations".

[5.2] A company related to the mine had a few years earlier obtained an interdict against Mr Thukwana and "potentially against various of the other Respondents". The previous order shows that Mr Thukwana and "potentially all other Respondents ... seem to target mining operations with demands of securing work and ultimately turning to intimidation and threats."

[5.3] The respondents unlawfully gained access to the mine on 22 July 2025 "through [unspecified] force" with a vehicle. Once on the property, the respondents chased the [unidentified] mine's employees out of the [unspecified] working area and blocked and restricted access to the mine's offices. The respondents also engaged in [unspecified] intimidation and threats directed at the [unidentified] mine's employees and contractors, demanding that the mine's managers meet with the respondents.

[5.4] The respondents gave the mine an ultimatum to either accede to their demand for work, or they would return to shut down mining operations. The respondents also handed various [unidentified] documents to the mine and threatened and intimidated

the mine's [unidentified] security personnel. The respondents refused to leave, despite demand by [unspecified person/s].

[5.5] The mine called the police for assistance, who, upon arrival, refused to evacuate the respondents. The police did nothing in circumstances where the mine expected assistance from them.

[5.6] The respondents indicated that they were there on the mandate of a certain local community association. The association denied this.

[5.7] At some stage the mine's site manager and another manager arrived and engaged with the respondents. Mr Thukwana shouted at them and indicated that if the mine does not employ the respondents, the respondents would return to shut down mining operations. The respondents demanded employment and yellow machine procurement opportunities. The respondents indicated that if they do not get these business opportunities, the mine will "see". The mine considered this to be a veiled threat.

[5.8] These events caused severe disruptions of mining activities and financial losses of up to a million rand per day. The events also placed the mine's employees at risk.

[5.9] The next day, Mr Thukwana delivered a letter of demand to the mine. Mr Mabilo quotes what he considers to be the important part of the letter: "We demand that the current mining activity at the site be halted and a meaningful consultation process be initiated." I quote the letter in paragraph 6 below. It suffices for the present to say that Mr Mabilo's quote is out of context.

[5.10] Mr Mabilo concludes that the mine has good reason to say that an injury was committed or that the mine has a reasonable apprehension of harm. The mine has no other available remedy, especially given the police's neutral stance.

Mr Thukwana's 23 July 2025 letter

[6] Mr Mabilo attached Mr Thukwana's letter to the founding affidavit. It is important, for proper context, that I quote the letter.

"1. We been aware that Strathrae Colliery has been awarded a mining right located approximately 80km east of Emalahleni along the N4 and the R33 connecting Wonderfontein and Carolina town, Chief Albert Luthuli Local Municipality.

2. *We have never been consulted at any stage* of the application of the prospecting and mining permits as required in terms of the Minerals and Petroleum Resources Development Act 28 of 2002 ("MPRDA").

3. Further that *we have on numerous occasions, requested to be provided with information and/or documents* relating to the granting of the prospecting and mining permits without any success and/or co-operation from Strathrae Colliery.

4. As an interested party to this process (as defined in the applicable regulations to MPRDA and Mine Community Resettlement Guidelines 2022), this being our ancestral land where they still live and have interest to protect the sacred areas at risk of desecration from the mining activities, material non-compliance through *failure to consult* with interested / affected parties at all stages of the prospecting and mining permits application, and/or *submission of false and/or misleading information* in support of the above applications (this being a criminal offence), *We demand that the current mining activity at the site be halted and a meaningful consultation process be initiated.* [*Mr Mabilo quoted the last sentence.]

5. In order to preparing for such consultation process, we request to be provided with the following documents:

[Several documents are then listed. I do not repeat the list here.]

6. On receipt of the above documents, we will schedule an initial consultation meeting at which the full consultation process will be discussed and agreed between the parties.

7. *The main purpose of demanding a meaningful consultation is to ensure that we can protect our interests and not meant to unduly delay or frustrate the mining activity.*

8. Should we receive no response which includes the requested documents in paragraph 5 above, *we intend to take all necessary steps to protect our rights and interests, including, but not limited to alerting the Department of Mineral Resources and Energy, interdicting the mining activity currently underway and bringing to review the prospecting and mining licence award process.*" (My emphasis.)

Mr Strauss and Ms Maseko

[7] Mr Strauss, the mine's manager, and Ms Maseko, a manager at the mine, confirmed Mr Mabilo's founding affidavit in as far as it relates to them. They basically confirm the events that unfolded at the meeting with the respondents on 22 July 2025.

Mr Manuel

[8] Mr Manuel, the mine's contracted protection manager, says in his confirmatory affidavit that the respondents gained access to the mine through [unspecified] force and that they had chased [unidentified] employees out of their [unidentified] working area. The respondents then blocked access to the mine's offices and engaged in [unidentified] "intimidation and threats", demanding that management meet the respondents. They also threatened the mine's private security team and refused to leave.

The answering affidavit

[9] In his answering affidavit, Mr Thukwana says:

[9.1] The mine does not hold any mining rights. The mine had on multiple occasions undertaken to provide proof of its mining rights but had failed to do so. Various meetings with the mine were held, amongst others at Alzu Petroport and at the mine's offices in Emalahleni. Mr Thukwana also conducted some investigations and came across a newspaper article, wherein one of the mine's representatives had been linked to illegal mining activities, but at a different location. Mr Thukwana identified this person by name. I do not repeat the name here because that person nor his version is before court.

[9.2] The respondents were at the mine to follow up on the mine's empty promises (ostensibly regarding proof of mining rights). Mr Thukwana denies demanding any work and explains that he already owns mining equipment, one of which was operating at the mine. He also denies any allegations of threats, violence, intimidation or interruption of mining operations. He also denied refusing to leave the mine.

[9.3] Only the respondents were present on the day. Mr Sibiya – the respondent against whom the mine had withdrawn its application – was not present.

[9.4] The previous interdict was irrelevant for current purposes. The police took a neutral stance because they witnessed no unlawful activity.

[9.5] On the day in question, when informed that the managers were not immediately available, the respondents waited outside the mining area. The police and the mine manager found them there. The security then escorted them to the mine's office for the meeting and, later, out again.

[9.6] Mr Thukwana denies shouting or demanding work. He says there was no need to shout, since the respondents had already decided to put their grievances in writing. He denies saying that the mine will “see”.

[10] The next day, they delivered the grievance letter, wherein he referenced shutting down the mine, but lawfully, amongst others, to convince the mining regulators to serve a stoppage notice on the mine. After the delivery of the letter of grievances, he had a telephonic discussion with the representative of the mine who allegedly had ties to illegal mining. This representative berated Mr Thukwana, saying that “it won't end well”.

[11] Mr Thukwana denies that the mine has suffered any losses because of the respondents' visit. Mr Thukwana insists that he, as a member of the community, has a right to oppose illegal mining. The mine's application was simply the mine “trying their luck”.

[12] Messrs Ndwandwe, Nkosi, and Mahlangu filed confirmatory affidavits, confirming that Mr Thukwana's version was true and correct.

The replying papers.

[13] In his replying affidavit, Mr Mabilo says that Mr Thukwana's answering affidavit amounts to a bare denial and that evidence tendered in the founding affidavit stands uncontested. Mr Mabilo denied large parts of Mr Thukwana's affidavit. He, for instance, denied the meetings held at Alzu Petroport and in Emalahleni. But he also failed to respond to several of the respondents' allegations. I will discuss the denied and omitted facts later when I consider the body of facts.

The requirements for a final interdict

[14] It is trite that an applicant for a final interdict must prove a clear right, that an injury was actually committed or reasonably apprehended, and the absence of any other satisfactory and available remedy.¹

The mine's clear right

[15] The respondents denied that the mine had any right to mine. I am thus obliged to consider whether the respondents' denial raises a serious dispute of fact. Here, I am guided by the principle laid down in *Soffiantini v Mould*,² wherein it was said:

"It is necessary to make a *robust, common-sense approach* to a dispute on motion as otherwise the effective functioning of the Court can be hamstrung and circumvented by the most simple and blatant stratagem. The Court must not hesitate to decide an issue of fact on affidavit merely because it may be difficult to do so. Justice can be defeated or seriously impeded and delayed by an over-fastidious approach to a dispute raised in affidavits." (My emphasis.)

¹ *Setlogelo v Setlogelo* 1914 AD 221.

² *Soffiantini v Mould* 1956 (4) SA 150 (E) at 154G-H.

[16] If the answering affidavit is read in context with the 23 July letter, it becomes clear that the respondents do not deny that a mining right had been issued. Their issue with the right is that it had been granted unlawfully, amongst others because the mine did not consult affected communities. The mine's failure to provide the respondents with the documents relevant to the mining right fuelled the respondents' belief.

[17] At the hearing, counsel for the respondents differed from me, maintaining that the mine does not have any right to mine because it failed to attach the permit to the founding papers. I pointed out to counsel for the respondents that his stance places Mr Thukwana, the first respondent, in a precarious position. This, because Mr Thukwana's mining equipment was operating at the mine. If Mr Thukwana's stance, that the mining activities were unlawful, is to be accepted, then it would mean that Mr Thukwana was earning income from these illegal mining activities, which would question Mr Thukwana's issue with the illegal mining.

[18] I also pointed out to the respondents' counsel that it was evident from Mr Thukwana's 23 July letter that Mr Thukwana has above average knowledge of mining rights. Mr Thukwana would have been perfectly placed to attend to the office of the mining regulators and enquire about the mine's mining right. Mr Thukwana did not do that.

[19] In my view, the argument advanced by the respondents' counsel on this issue does not align with the underlying facts. Questions about the lawfulness of the mining right do not invalidate it; it remains enforceable until set aside. I am satisfied – if I apply a robust approach to the papers – that the respondents do not genuinely dispute the mine's clear right and that the mine has established that it had a clear right to mine.

An injury actually committed or reasonably apprehended

[20] The 22 July events are what lies at the heart of the application, but the parties' versions of events are mutually destructive. To resolve this, I am obliged to apply the

principle articulated in *Plascon-Evans Paints Ltd v Van Riebeeck Paints (Pty) Ltd*,³ commonly referred to as the *Plascon-Evans* rule. The principle provides as follows:

"It is correct that, where in proceedings on notice of motion disputes of fact have arisen on the affidavits, a final order ... may be granted if those facts averred in the applicant's affidavits which have been admitted by the respondent, together with the facts alleged by the respondents, justify such an order. The power of the Court to give such final relief on the papers before it is, however, not confined to such a situation. In certain instances the denial by respondent of a fact alleged by the applicant may not be such as to raise a real, genuine or bona fide dispute of fact... If in such a case the respondent has not availed himself of his right to apply for the deponent concerned to be called for cross-examination ... and the court is satisfied as to the inherent credibility of the applicant's factual averment, it may proceed on the basis of the correctness thereof and include this fact among those upon which it determines whether the applicant is entitled to the final relief which he seeks... Moreover, there may be exceptions to this general rule, as, for example, where the allegations or denials of the respondent are so far-fetched or clearly untenable that the Court is justified in rejecting them merely on the papers ..."

[21] My understanding of the *Plascon-Evans* rule is that I must list those facts admitted by the respondents and add thereto the remainder of the respondents' version. I must then robustly peruse the respondents' versions for any obvious lies or improbabilities and remove them from the list. The facts remaining on the list will constitute the facts on which I must determine the mine's case.

[22] At the hearing, counsel for the mine confirmed that Mr Mabilo had not been an eyewitness to the 22 July events. He confirmed that the two managers were the mine's only eyewitnesses to the meeting. He argued that Mr Manuel, the security officer, was an eyewitness. I disagree and will hereunder show that there is no room in Mr Manuel's affidavit to infer that Mr Manuel had been an eyewitness to the events of 22 July.

[23] The fact that Mr Mabilo was not an eyewitness presents serious evidentiary issues for the mine, because Mr Mabilo was the only witness on behalf of the mine to

³ *Plascon-Evans Paints Ltd v Van Riebeeck Paints (Pty) Ltd* 1984 (3) SA 623 (A) at 634E-635C.

file a replying affidavit. Whatever Mr Mabilo has said in his replying affidavit with regard to the 22 July events is inadmissible hearsay and not an answer to the respondents' answering affidavit. The answering affidavits are – with regard to the events of 22 July – uncontested before me.

[24] Here is why I say the papers do not disclose that Mr Manuel had been an eyewitness, notwithstanding him saying in the opening paragraph of his affidavit that the facts contained therein fall within his personal knowledge. In paragraph 3 of his affidavit, Mr Manuel confirms that he had read Mr Mabilo's founding affidavit and confirms paragraphs 29 to 36 thereof. In those paragraphs, Mr Manuel's name is not once mentioned. The closest reference to Mr Manuel is that Mr Mabilo alleges that the respondents (thus including Mr Sibeko) "engaged with the Applicant's private security". Mr Manuel's confirmation that Mr Mabilo's affidavit was true and correct insofar as it related to Mr Manuel is clearly meaningless.

[25] Mr Manuel proceeds in his confirmatory affidavit but never, not once, says words that could, even on a liberal application, be interpreted as to mean that he had witnessed anything.

[26] Mr Mabilo's (hearsay) replying affidavit has no standing against the respondents' answering affidavits, wherein they pertinently denied that Mr Manuel had witnessed the events of 22 July.

[27] The only eyewitnesses on behalf of the mine are the two managers who met the respondents. Their contribution relates to the events that unfolded during the meeting.

[28] I will now apply the *Plascon-Evans* rule to determine whether the mine has proven the second requirement for a final interdict.

[29] Firstly, I list the facts admitted by the respondents. The respondents admit that they:

[29.1] Were at the mine on 22 July 2025.

[29.2] Met with the two managers.

[29.3] Discussed amongst others their concerns about the mining permit.

[29.4] Were escorted out of the mine (after the meeting) by the mine's security.

[29.5] Delivered the 23 July letter and the contents thereof.

[29.6] The mine previously interdicted Mr Thukwana.

[30] Secondly, I add the remainder of the respondents' version. These are:

[30.1] The respondents have previously, at different locations, met the mine's management to raise their concerns about the mining operations.

[30.2] They have previously requested information from the mine but have not been provided therewith.

[30.3] On 22 July they did not enter the mine by force but were escorted onto the mine property by the mine's security.

[30.4] They deny disrupting mining operations or shouting at the mine's managers.

[30.5] They also deny threatening or intimidating anyone.

[30.6] They deny that the 23 July letter constitutes any threat.

[30.7] They deny that the previous interdict is relevant to the current proceedings.

[30.8] The respondents say that the person implicated in other illegal mining activities called the first respondent after delivery of the 23 July letter.

[30.9] The respondents deny that Mr Mabilo (the director) nor Mr Manuel (the security contractor) were present on 22 July. The respondents deny that any other member of the community – other than the four respondents – were at the mine on 22 July.

[31] Thirdly, I robustly scrutinise the respondents' version for any lies, far-fetched or clearly untenable allegations, or improbabilities. However, I do not do that in isolation. I use the mine's replying affidavit as a starting point. (For present purposes, I leave aside the fact that the replying affidavit is hearsay.) In Mr Mabilo's replying affidavit, he says that the respondents' version was a bare denial. I disagree because it is evident that the respondents have engaged the mine's version.

[32] In *Wightman t/a JW Construction v Headfour (Pty) Ltd and Another*,⁴ the Supreme Court of Appeal had this to say about bare denials:

"A real, genuine and bona fide dispute of fact can exist only where the court is satisfied that the party who purports to raise the dispute has in his affidavit seriously and unambiguously addressed the fact said to be disputed. There will of course be instances where a bare denial meets the requirement because there is no other way open to the disputing party and nothing more can therefore be expected of him. But even that may not be sufficient if the fact averred lies purely within the knowledge of the averring party and no basis is laid for disputing the veracity or accuracy of the averment. When the facts averred are such that the disputing party must necessarily possess knowledge of them and be able to provide an answer (or countervailing evidence) if they be not true or accurate but, instead of doing so, rests his case on a bare or ambiguous denial the court will generally have difficulty in finding that the test is satisfied. I say "generally" because factual averments seldom stand apart from a broader matrix of circumstances all of which needs to be borne in mind when arriving at a decision."

[33] Ironically, the replying affidavit is, in large part, a bare denial. The mine did not engage the respondents' version that they were escorted onto the mine by the mine's security, nor did it engage the respondents' version that several meetings were previously held with mine management. The mine did not engage the respondents'

⁴ *Wightman t/a JW Construction v Headfour (Pty) Ltd and Another* 2008 (3) SA 371 (SCA) at para 13.

version that the person associated with illegal mining activities had contacted the respondents. The mine did not engage the respondents' version that Mr Mabilo and Mr Manuel were not present on the day in question. But even more telling is that the mine has failed to identify a single employee who had been chased away by the respondents, nor did it identify which operations had been interfered with.

[34] In *Soffiantini*,⁵ the court said the following about bare denials:

"In the case of *Room Hire Co. (Pty.) Ltd v Jeppe Mansions (Pty.) Ltd.*, 1949 (3) SA 1155 (T), at p. 1165 MURRAY, then A.J.P., said:

'A bare denial of applicant's material averments cannot be regarded as sufficient to defeat applicant's right to secure relief by motion proceedings in appropriate cases. Enough must be stated by respondent to enable the Court to conduct a preliminary examination . . . and to ascertain whether the denials are not fictitious intended merely to delay the hearing.'

(or for some other purpose)

'The respondent's affidavits must at least disclose that there are material issues in which there is a *bona fide* dispute of fact capable of being decided only after *viva voce* evidence has been heard.'

...

If by a mere denial in general terms a respondent can defeat or delay an applicant who comes to Court on motion, then motion proceedings are worthless, for a respondent can always defeat or delay a petitioner by such a device.

It is necessary to make a robust, common-sense approach to a dispute on motion as otherwise the effective functioning of the Court can be hamstrung and circumvented by the most simple and blatant stratagem. The Court must not hesitate to decide an issue of fact on affidavit merely because it may be difficult to do so. Justice can be defeated or seriously impeded and delayed by an over-fastidious approach to a dispute raised in affidavits.

⁵ *Soffiantini* fn 2 at 154E-H.

The respondent has set out his case in the greatest detail. In reply the appellant has made a bald denial to some allegations; others he has not denied at all."

[35] Of concern is Mr Mabilo's quotation of part of the 23 July letter, ostensibly because he felt that the quoted part supports his version that the respondents threatened to shut down the mine. But he has failed to quote or address the part of the letter wherein the respondents say that "[t]he main purpose of demanding a meaningful consultation is to ensure that we can protect our interests and not to unduly delay or frustrate the mining activity."

[36] The mine has also failed to file affidavits of any employee who had been chased away or of any security officer who saw the respondents entering the mine with force. This information falls squarely within the mine's peculiar knowledge.

[37] There is another issue of even greater concern in the mine's application. The four witnesses on behalf of the mine identified Mr Sibiya – the erstwhile second respondent – as a person who entered the mine area with force, chased the mine's employees away and who was present during the meeting when the managers were threatened. Notwithstanding this, the mine withdrew the application against Mr Sibiya, without tendering any evidence as to how it came about that Mr Sibiya was mistakenly identified.

[38] The objective probabilities also do not favour the mine. It is, objectively seen as difficult to believe that the police would take no steps if mine employees complain to the police that they were intimidated and chased out of their workplace. It is also objectively seen as improbable that, where trespassers had by force gained access to a property, the police would not have been shown damage to, for instance, the mine's gate. The probabilities without doubt favour the respondents.

[39] On behalf of the mine, the two managers stated what had happened during the meeting on 22 July, but the four respondents dispute that. It is impossible on the papers to reject the respondents' version as false, far-fetched, untenable or improbable. The same principle applies to the photos produced by the parties. The mine alleges that the photo it provided depicts the respondents' vehicle on the mine.

The respondents deny this, alleging that the photo they attached depicts the vehicle outside the mine.

[40] Having scrutinised the answering affidavits robustly, I cannot identify a single lie, far-fetched or untenable allegation, or improbability. The respondents' version remains unscathed. The evidence remaining on my list leaves me no choice but to find that the mine has failed to prove any injury or imminent injury.

The absence of any other satisfactory and available remedy

[41] Given my finding on the second requirement, the third requirement has become moot. If I had not found the way I did regarding the second requirement, I would have found that no other remedy was open to the mine. It is common cause that the police had not taken any steps, albeit the parties hold opposite views as to the reasons for the police's neutral stance.

The sixth and seventh respondents

[42] Because of the conclusion I have reached with regard to the second requirement for a final interdict, it follows that the application against the sixth and seventh respondents – the unknown trespassers and the police – is also to be dismissed.

Costs

[43] Ordinarily, in matters like the current one, costs follow the result whilst punitive cost orders are only to be made in circumstances where the conduct of a litigant warrants a deviation from the ordinary rule. Nothing in the conduct of the mine suggests that a punitive order is warranted.

[44] But another issue arises here, which I have canvassed with counsel at the hearing. The interim order provides that the respondents be held liable for the costs (until and including 7 August 2025) on an attorney and client scale. That cost order is a self-contained order and not subject to the rule nisi. If I order that the remaining costs

be paid by the mine on a party and party scale, it will effectively mean that – although the respondents have succeeded in the end – they will be liable for the larger part of the costs. This is because costs on a party and party scale are substantially lower than an attorney and client costs.

[45] For that reason, and in the interest of fairness, I will award the costs relating to the events after 7 August 2025 to be paid by the mine on an attorney and client scale. For the taxing master's benefit, I confirm that had I granted a party and party cost order, I would have ordered it to be payable on scale B. Although serious, the matter is not that complex to warrant costs on scale C. The matter also does not present novel legal principles or constitutional issues.

Order

[46] For the reasons set out above, the rule nisi is discharged and the application dismissed with costs on an attorney and client scale, which costs exclude the costs taxable under the order granted by this Court on 7 August 2025.



SCHUTTE AJ

ACTING JUDGE OF THE HIGH COURT
MPUMALANGA DIVISION, MIDDELBURG

Appearances

For the applicant: Adv Maritz

For the first, third,
fourth and fifth respondents: Mr Mahlangu

Date heard: 22 July 2026

Judgment delivered: 05 August 2026