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**IN THE HIGH COURT OF SOUTH AFRICA
GAUTENG DIVISION, PRETORIA**

CASE NO: 2026/154314

(1) REPORTABLE: ***NO***

(2) OF INTEREST TO OTHER JUDGES: ***NO***

(3) REVISED.

(4) Date: 14 August 2026

Signature:

In the matter between:

MINISTER OF POLICE

First Applicant

MINISTER OF PUBLIC WORKS

Second Applicant

And

PETER BOITUMELO MASAKE

1ST RESPONDENT

MFANAFUTHI PETERSON MTHETHWA

2ND RESPONDENT

MFANAFUTHI PETERSON KGATLA

3RD RESPONDENT

GOPOLANG GODFREY SEWEDI	4TH RESPONDENT
OUPA KHOMOTSO MOTHWA	5TH RESPONDENT
RICHARD STHEMBISO MASILELA	6TH RESPONDENT
GEZANI PHANUEL HLUNGWANI	7TH RESPONDENT
MAMUTHI LINDA SELEBALO	8TH RESPONDENT
THEMBA FRAIZER MAYISELA	9TH RESPONDENT
FANAFANA JOHANNES MAHLANGU	10TH RESPONDENT
CWALIZANDLA PIET MNGUNI	11TH RESPONDENT
MATTHEW MAROTHE TSOKELA	12TH RESPONDENT
RAKOBO BERNARD THOKA	13TH RESPONDENT
KGOSIETSILE DAVID CHISSICO	14TH RESPONDENT
LIVHUWANI ERNEST MOENG	15TH RESPONDENT
MOLEBOGENG MOENG	16TH RESPONDENT
MORGAN KGOADIAMOLEKE KGWALE	17TH RESPONDENT
PHUTI CAIPHUS RANOTO	18TH RESPONDENT
NTSAKISI JOB NKUNA	19TH RESPONDENT
VUSI SAMUEL KHUMALO	20TH RESPONDENT
DAMAN RAMOTLAKANE RAMALEPA	21ST RESPONDENT
NCEBA KENNETH MASELANA	22ND RESPONDENT
PHUTI THOMAS MDAKA	23RD RESPONDENT
ANY OTHER UNLAWFUL OCCUPIERS	24TH RESPONDENT
THE CITY OF TSHWANE METROPOLITAN MUNICIPALITY	25TH RESPONDENT
THE MINISTER OF HUMAN SETTLEMENTS	26TH RESPONDENT

JUDGMENT

NYATHI J**INTRODUCTION**

[1] This is an urgent application in which the Applicants seek the eviction of the First to Twenty-Fourth Respondents, together with all persons occupying through them, from the South African Police Service ("SAPS") Single Quarters situated at Erf 1[...], P[...] Street, Corner Pretorius and Bosman Streets, Pretoria.

[2] The Applicants contend that the building is state-owned property administered by the SAPS, that all rights of occupation have been lawfully terminated, and that the building has become unsafe and unfit for human habitation due to extensive structural, electrical, sanitary and fire-safety defects. They seek urgent intervention on the basis that continued occupation presents a substantial risk to life and safety.

[3] The Respondents oppose the application. They contend, inter alia, that:

- (a) the application lacks urgency;
- (b) the deponent lacks authority;
- (c) material disputes of fact exist;
- (d) their occupation arises from contractual employment-related accommodation rights that have not been lawfully terminated; and

(e) the Applicants seek to rely on circumstances substantially attributable to their own neglect and failure to maintain the premises.

ISSUES

[4] The principal issues requiring determination are:

- (a) whether urgency has been established;
- (b) whether the Applicants have authority to institute the proceedings;
- (c) whether material disputes of fact preclude final relief;
- (d) whether the Respondents' rights of occupation have been lawfully terminated;
- (e) whether the Respondents are unlawful occupiers;
- (f) whether the Prevention of Illegal Eviction from and Unlawful Occupation of Land Act 19 of 1998 ("PIE") applies; and
- (g) whether it is just and equitable to grant an eviction order.

URGENCY

[5] Rule 6(12) requires an applicant seeking urgent relief to establish both the circumstances rendering the matter urgent and why substantial redress cannot be obtained in due course.

[6] In *East Rock Trading 7 (Pty) Ltd v Eagle Valley Granite (Pty) Ltd* 2012 (2) SA 506 (GSJ), the Court held that the essential enquiry is whether substantial redress can be obtained at a hearing in due course.

[7] The Applicants rely upon various reports identifying severe defects in the building and the occurrence of fire incidents during November 2025 and June 2026.

[8] The Respondents correctly point out that concerns regarding the building's condition have existed for a considerable period, some dating back several years.

[9] However, delay is not invariably fatal where a continuing danger exists. Courts have repeatedly recognised that urgency may arise where there exists an ongoing threat to safety, health or life.

[10] The evidence reveals that the complaints are not historical only. The Applicants place before the Court current inspection reports and evidence of recent fire incidents. The danger alleged is continuing rather than completed.

[11] In my view, the case raises issues affecting life, safety and bodily integrity. If the Applicants' allegations concerning the condition of the building are substantially correct, no subsequent order could reverse the consequences of a catastrophic fire, structural collapse or electrocution.

[12] I am therefore satisfied that urgency has been established.

AUTHORITY

[13] The challenge to authority is not persuasive.

[14] Rule 7 remains the principal mechanism by which authority may be challenged. The Respondents do not demonstrate that the proceedings were not authorised by the relevant organs of state. Their objection is directed primarily at the sufficiency of the documentary proof placed before the Court.

[15] The courts have repeatedly held that a deponent need not be authorised to depose to an affidavit and that authority to institute proceedings may be inferred from the conduct of the litigant itself. See *Ganes and Another v Telecom Namibia Ltd* 2004 (3) SA 615 (SCA).

[16] I accordingly reject the authority point.

MATERIAL DISPUTES OF FACT

[17] The Respondents submit that extensive disputes of fact exist.

[18] It is indeed correct that where final relief is sought on motion, the approach in *Plascon-Evans Paints Ltd v Van Riebeeck Paints (Pty) Ltd* 1984 (3) SA 623 (A) applies.

[19] Not every disagreement on the papers constitutes a genuine dispute of fact. The dispute must be real, bona fide and material.

[20] Several of the Respondents' challenges relate not to the existence of defects but to their extent and severity. Importantly, the Respondents do not deny that:

- (a) the building has substantially deteriorated;
- (b) extensive repairs are required;

- (c) electrical infrastructure is defective;
- (d) sanitation systems are compromised; and
- (e) fire incidents have occurred.

[21] The Respondents largely contend that repairs should be undertaken rather than eviction ordered.

[22] The disputes identified by the Respondents do not, in my view, require oral evidence for the determination of the decisive issue before the Court, namely whether they enjoy a continuing legal right to remain in occupation notwithstanding the termination of their occupational arrangements and the condition of the building.

WHETHER THE RESPONDENTS RETAIN A RIGHT OF OCCUPATION

[23] The Applicants are the owner and lawful administrator of the premises. This is common cause.

[24] The Respondents' occupation originated solely from employment-related accommodation arrangements associated with SAPS service.

[25] The Respondents contend that tacit renewals occurred because occupation continued and rentals were deducted for extended periods.

[26] There is force in the contention that prolonged occupation may, in appropriate circumstances, support an inference of tacit continuation of contractual relations.

[27] However, even accepting the Respondents' version at its highest, the evidence establishes that the Applicants eventually issued notices terminating occupation and requiring the premises to be vacated.

[28] The question is therefore whether such termination was lawful.

[29] The Respondents place significant reliance on *Minister of Safety and Security v Moodley* 2011 ZASCA 93.

[30] The principle emerging from *Moodley* is that the lawfulness of termination constitutes an anterior enquiry and must be determined before occupation can be declared unlawful.

[31] Unlike *Moodley*, however, the present case does not concern solely administrative fairness in terminating occupation. The Court is confronted with compelling evidence that the premises themselves have become unsafe and unsuitable for continued habitation.

[32] No contractual right can oblige an owner or organ of state to permit occupation that threatens life and safety. Contractual rights exist within the framework of legality, public policy and constitutional values.

[33] Even if the Respondents once enjoyed enforceable occupational rights, those rights cannot be interpreted as creating perpetual entitlement to remain in a building established to be unsafe.

APPLICABILITY OF PIE

[34] I am not persuaded that PIE can be excluded merely because occupation originated from employment.

[35] The Constitutional Court has repeatedly emphasised that PIE must be interpreted broadly and purposively. Occupation extending over many years and involving family life ordinarily engages section 26(3) of the Constitution.

[36] Several Respondents have occupied the premises for lengthy periods and regard the premises as their homes.

[37] I therefore proceed on the basis most favourable to the Respondents, namely that PIE applies.

JUST AND EQUITABLE ENQUIRY

[38] The Court is required under section 4(7) of PIE to consider all relevant circumstances.

[39] The guiding principles were articulated in *Port Elizabeth Municipality v Various Occupiers* 2005 (1) SA 217 (CC), where Sachs J stressed the need for a judicial balancing of competing constitutional rights.

[40] The relevant circumstances include:

- (a) the long duration of occupation;
- (b) the existence of families and minor children;
- (c) the employment relationship with SAPS;
- (d) the absence of ownership rights on the part of the Respondents;
- (e) the condition of the building;
- (f) the public interest; and
- (g) considerations of safety and dignity.

[41] The Court must further have regard to *Occupiers of 51 Olivia Road v City of Johannesburg* 2008 (3) SA 208 (CC) and *City of Johannesburg Metropolitan Municipality v Blue Moonlight Properties 39 (Pty) Ltd* 2012 (2) SA 104 (CC).

[42] These authorities demonstrate both the need to protect vulnerable occupiers and the obligation of courts to ensure that evictions occur in a humane and orderly manner.

[43] This case is distinguished by an overriding factor: the evidence establishes **substantial and serious risks associated with continued occupation**. [my emphasis].

[44] The Respondents do not meaningfully dispute that extensive refurbishment is necessary before the building can safely accommodate residents. Indeed, their own argument is that such refurbishment should be undertaken.

[45] The difficulty with the Respondents' position is that refurbishment cannot realistically occur while occupation of the entire building continues.

[46] Courts cannot compel organs of state to tolerate continued occupation where such occupation itself creates or exacerbates a danger to human life.

[47] In the balancing exercise required by PIE, the rights to life, dignity and bodily integrity assume particular significance. *S v Makwanyane* 1995 (3) SA 391 (CC) recognised the right to life as the most fundamental of rights.

[48] The interests of justice therefore favour evacuation of the building.

ALTERNATIVE ACCOMMODATION

[49] The City of Tshwane and the Minister of Human Settlements have been joined.

[50] The information presently before the Court is insufficient to justify refusing eviction altogether.

[51] However, immediate summary eviction without provision for temporary alternative accommodation would not be just and equitable.

[52] Appropriate supervisory relief is therefore required.¹

ORDER

[53] The following order is made:

53.1 The application is heard as one of urgency.

53.2 The First to Twenty-Fourth Respondents and all persons occupying through them are declared unlawful occupiers for purposes of PIE.

53.3 An eviction order is granted.

53.4 The eviction is suspended for a period of **90 days from the date of this order**.

53.5 The Twenty-Fifth Respondent (City of Tshwane Metropolitan Municipality) and the Twenty-Sixth Respondent (Minister of Human Settlements) shall, within 30 days, file reports indicating:

- a. the availability of temporary emergency accommodation;
- b. measures available to assist affected occupiers; and
- c. the proposed relocation arrangements.

53.6 The matter is retained under judicial supervision for consideration of the reports.

¹ In *Minister of Health and Others v Treatment Action Campaign and Others (No. 2)* [2002] ZACC 15; 2002 (5) SA 721 (CC) the Constitutional Court held that the remedial powers of our courts to grant mandatory relief against the government

'includes the power where it is appropriate to exercise some sort of supervisory jurisdiction to ensure that the order is implemented'.

How these powers are exercised 'depends on the circumstances of each particular case' but ultimately a supervisory order may be made 'if it is necessary to secure compliance with a court order'.

53.7 In the event that the premises have not been vacated by the expiry of the suspension period, the Sheriff is authorised to effect the eviction.

53.8 Each party shall pay its own costs.

J.S. NYATHI
Judge of the High Court
Gauteng Division, Pretoria

Date of hearing: 05 August 2026

Date of Judgment: 14 August 2026

Appearances:

On behalf of the Applicant: Adv. P. Mthombeni; with him Adv. Mabuyakhulu

Applicants' attorneys: State Attorney Pretoria

On behalf of the Respondents: Mr. T. Pillay

Attorneys for the Respondents: Pillay Thesigan Inc. Attorneys, Pretoria.

Delivery: This judgment was handed down electronically by circulation to the parties' legal representatives by email and uploaded on the CaseLines electronic platform. The date for hand-down is deemed to be 14 August 2026.