



**IN THE HIGH COURT OF SOUTH AFRICA
NORTH WEST DIVISION, MAHIKENG**

Not Reportable

Case No: M700/2023

In the matter between:

NCHAUPE ROMOLEPO EDWARD MAKAPAN FIRST APPLICANT

BAKGATLA BA MOSETLHA

TRADITIONAL COUNCIL

SECOND APPLICANT

(Registration Number: 2021/394180/07)

And

MMAMOKWELE HENDRICK LETSOALO

FIRST RESPONDENT

SHOPRITE CHECKERS

SECOND RESPONDENT

(Registration Number: 1929/001817/07)

**MINISTER OF LAND REFORM
AND RURAL DEVELOPMENT**

THIRD RESPONDENT

**THE MINISTER OF COOPERATIVE
GOVERNMENT AND
TRADITIONAL AFFAIRS**

FOURTH RESPONDENT

**THE PROVINCIAL GOVERNMENT
OF THE NORTH WEST**

Coram: Masike AJ

Date order of Court handed down: 19 February 2026

Date request for reasons made: 7 July 2026

Date request for reasons brought to the attention of the Court: 14 August
2026

Judgment is handed down electronically, distributed to the parties' legal representatives by e-mail, and released to SAFLII. The date that the judgment is deemed to be handed down is **28 AUGUST 2026 at 10h00**.

Summary: Application for request for reasons for order made by Court under rule 49(1)(c) - request made outside the 10 days period prescribed under rule 49(1)(c) – no application for condonation for extension of time to request reasons under rule 27(1) – Court precluded from *mero motu* condoning non-

compliance with the rules of the court without an application – application for reasons under rule 49(1)(c) not entertained.

JUDGMENT

MASIKE AJ

Introduction

[1] On 19 February 2026, this Court made an order which reads as follows:

- ‘(i) The 2017 lease agreement, marked as annexure “FA1” entered into between the first applicant and the first respondent in respect of the piece of land measuring 800m² at Makapanstadt Village situated on portion 2 of the farm Goedgewagde 60 JR Stand Number 2[...] Maseding Section Makapanstadt in the district Moretele is cancelled.
- (ii) All and any sub lease agreements entered into between the first respondent and the second Respondent in respect of the piece of land measuring 800m² at Makapanstadt Village situated on portion 2 of the farm Goedgewagde 60 JR Stand Number 2[...] Maseding Section Makapanstadt in the district of Moretele are cancelled.
- (iii) The first respondent is ordered to pay the costs of the application on a party and party scale, including the costs of counsel on Scale “B”.
- (iv) Reasons for this order will be provided to the parties on request.’

(the order)

[2] On 14 August 2026, this Court was notified by Ms Rampagane, the secretary of this Court, that a request for reasons had been received. Upon consideration of the request for reasons, this Court observed that the request

was by the first respondent, that it had been served on the attorneys of the other parties on 7 July 2026, and that it had been filed in the office of the registrar on 7 July 2026; this is evinced by the date stamp of the attorneys offices of the other parties and of the records section of the court. The date of 14 August 2026 is deemed to be the date on which this Court became aware of the request for reasons by the first respondent.

[3] Uniform rule 49(1)(c) of the Uniform Rules of Court ‘URC’ reads as follows:

‘When in giving an order the court declares that the reasons for the order will be furnished to any of the parties on application, such application shall be delivered within ten days after the date of the order.’ (my emphasis)

[4] The subrule is worded in unambiguous and prescriptive terms. The first respondent's request for reasons was clearly filed outside the prescribed ten-day period following the order date. The request for reasons was not accompanied by an application for condonation seeking this Court's indulgence to deliver it out of time, or by an order of the court condoning the late filing of the request for reasons.

[5] Rule 27 of the URC deals with the extension of time, the removal of the bar, and condonation. Rule 27(1) read with rule 27(3) of the URC reads as follows:

‘(1) In the absence of agreement between the parties, the court may upon application on notice and on good cause shown, make an order extending or abridging any time prescribed by these rules or by an order of court or fixed by an order extending or abridging any time for

doing any act or taking any step in connection with any proceedings of any nature whatsoever upon such terms as to it seems meet.

(3) The court may, on good cause shown, condone any non-compliance with these rules.’

[6] The subrule is worded in unambiguous and prescriptive terms. The reading of rule 27(1), in particular, the words ‘the court may on application on notice and on good cause shown, make an order extending or abridging any time prescribed by these rules’, this Court understand these words to mean that the Court may not on its own motion condone the non-compliance with the URC in the absence of an application by a party for such non-compliance.

[7] In our jurisprudence, it is trite that condonation is not available for the mere taking or asking. A party seeking condonation must make out a case entitling it to the court’s indulgence. It must show sufficient cause. This requires a party to give a full explanation for the non-compliance with the rules or the court’s directions. Of great significance, the explanation must be reasonable enough to excuse the default.¹ Rule 27(3) makes it clear that the Court, on good cause shown, may condone any non-compliance with the URC.

[8] As stated above, the request for reasons by the first respondent was not accompanied by an application for condonation of the late filing of the request for reasons, or by an order by the court condoning the late filing of the request for reasons. The request for reasons was filed four months outside the prescribed ten-day period. An attorney dealing with a matter is duty-bound to

¹ *Grootboom v National Prosecuting Authority and Another* (CCT 08/13) [2013] ZACC 37; 2014 (2) SA 68 (CC); 2014 (1) BCLR 65 (CC); [2014] 1 BLLR 1 (CC); (2014) 35 ILJ 121 (CC) (21 October 2013) para 23

acquaint himself or herself with the rules of court in which he or she litigates. In *Ferreira v Ntshingila (Ferreira)*², the then appellate division repeated this principle, although in that matter it was an application for the condonation of the late noting of an appeal and an application for the condonation of the late filing of the record and the late furnishing of security; the principle set out therein, in my view, finds equal application in this matter.

[9] The principle in *Ferreira* was reiterated in *MEC for Health Eastern Cape v AS obo SS*.³ I do not believe I can phrase the failure of an attorney to acquaint himself or herself with the URC better than how Petersen ADJP (as he then was) stated it in the matter of *Member of the Executive Council North West Department of Health v L.S.M obo O.M*⁴ at paragraph 50:

‘It is shocking that a legal practitioner who plies his profession in the hallowed halls of the North West High Court on a near daily basis, admits to being oblivious to the very rules of of the High Court which he is required to be fully acquainted.’

[10] It is shocking that the attorney of the first respondent would file the request for reasons four months out of time without first seeking condonation for the late filing of the request for reasons. Without the court having granted leave to file the request for reasons late, there is no proper request before this Court, and it is axiomatic that the application cannot be entertained at this time.

Order

[11] Resultantly, the following order is made.

² 1990 (4) SA 271 (A) at page 281F-G.

³ (842/2023) [2025] ZASCA 02 (15 January 2025) para 21.

⁴ (Appeal) (FC06/2024; 1362/2019) [2025] ZANWHC 203 (16 October 2025).

1. The application under rule 49(1)(c) for reasons for the order of this Court in the above case number dated 19 February 2026 is premature and cannot be entertained at this time.
2. The first respondent, should he so wish, may bring an application under rule 27(1) read with rule 27(3) of the URC for an order condoning the late filing of the request for reasons under terms of URC 49(1)(c).
3. The application under URC 27(1) read with 27(3) shall serve before Masike AJ on a date and time to be arranged with the registrar of the Honourable Court.

T MASIKE

ACTING JUDGE OF THE HIGH COURT OF SOUTH AFRICA
NORTH WEST DIVISION, MAHIKENG

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For the third respondent:

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For the fourth respondent: The Minister of Cooperative Government and
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For the fifth respondent: The Provincial Government of the North-West