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REPUBLIC OF SOUTH AFRICA
IN THE HIGH COURT OF SOUTH AFRICA
(GAUTENG LOCAL DIVISION, JOHANNESBURG)

Case Number: **2026-187627**

(1)	REPORTABLE: No
(2)	OF INTEREST TO OTHER JUDGES: No
(3)	REVISED: No
31/08/2026	_____
DATE	SIGNATURE

In the matter between:

CCG SYSTEMS (PTY) LTD (Registration number: 2006/015478/07)	First Applicant
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CHAKANETSA WALTER MUWANDI	Second Applicant
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ISABELLE DAYLE MUWANDI	Third Applicant
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PHUMUDZO LEONARD MUKWEVHO	Fourth Applicant
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MASHUDU VHUTSHILO MUKWEVHO	Fifth Applicant
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and

THE MINISTER OF POLICE	First Respondent
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WARRANT OFFICER VINCENT PULE MOKOENA	Second Respondent
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MAGISTRATE AME OOSTHUIZEN – RANDBURG	Third Respondent
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JUDGMENT

MANOIM J:

1. This urgent application challenges the lawfulness of searches and seizures carried out by members of the South African Police Service in July 2026 under warrants issued by a magistrate in terms of section 21, read with section 20 and Chapter 2, of the Criminal Procedure Act 51 of 1977. The searches occurred on two separate days at two different premises. A third warrant, issued for another address, was never executed. The applicants challenge the legality of all three warrants, which are identical except for the names and addresses of the persons to be searched.
2. Cited as respondents in this application are the Minister of Police (the first respondent), and the officer responsible for obtaining the warrants, Warrant Officer Vincent Mokoena, the second respondent. The police oppose the application. They allege they acted lawfully in terms of sections 20 and 21 of the Act.
3. The third respondent is the Magistrate who issued the warrant. She has elected to abide.
4. The first applicant is a private company, CCG Systems Pty Ltd (CCG). The remaining four applicants are variously two of the directors of CCG (the second and fourth applicants) and their respective wives (the third and fifth applicants).
5. The record does not disclose much about the business of CCG, but according to the applicants' founding affidavit, it is engaged in resource planning

systems and bids for numerous contracts with State organs across the country.

6. Before I consider the validity of the search and the warrants, some background information is necessary for context. This information comes from the answering affidavit filed on behalf of the first and second respondents.
7. The answering affidavit has been deposed to by Colonel Marietjie Roodt, who says she was fully involved in the investigation that gave rise to the searches, and she is the officer to whom Mokoena reports.
8. According to Roodt, in April 2025 a whistleblower told the police that they were aware of corrupt activities involving officials of the Ngaka Modiri Moloma District Municipality ("the Municipality") and persons associated with CCG. The whistleblower allegedly provided information to the police that CCG was bribing the mayor of the Municipality to secure tenders or the extension of tenders without a competitive process being followed. An enquiry was then opened.
9. She does not disclose what happened after this enquiry was opened, until the police held a meeting with some of the applicants on 2 July 2026 at which she says the allegations were put to them. Only the fourth applicant, Mukwevho, was present at this meeting as well as CCG's business development manager, a Ms Lugiva. Roodt says she told them that the police were investigating allegations of tender fraud, money laundering, and bribery relating to the relationship between CCG and the mayor and officials of the municipality. She describes Mukwevho as 'unforthcoming' with information.

10. On Mukwevho's version, a minute was kept of the meeting which he enclosed with the founding affidavit. It is a series of questions from the police to him which he answers, although sometimes saying he needed to check with his technical directors. At the end of the minute is a sentence that says: *"removal of Ngaka Modiri documents on the CCG database will be seen as a criminal act and action will be taken. It amounts to defeating the ends of justice."*
11. I have set out the versions of this meeting, which are largely consistent, as the police seek to rely on what information was disclosed in defence of the challenged warrant. Since the applicants had among other issues challenged the intelligibility of the language of warrant the police argued that the prior meeting had explained the ambit of the investigation and hence the applicants had been fully briefed on its scope.
12. On 21 July 2026, Mokoena, the second respondent, went to the Magistrate, the third respondent, to obtain search warrants. He had deposed to an affidavit on which the warrants were then based. He asked for and was issued with three warrants.¹ It was stated that Mokoena would oversee the searches and would be accompanied by named officials. Roodt's name is included in the list.
13. On 24 July 2026, the first search took place at CCG's business premises. Certain items were seized. Some were returned the following day. The applicants describe this as a two-day search, but it is not clear if the second day can be described as part of the search although nothing turns on this.

¹ The three warrants were numbered 55/2026, 56/2026 and 57/2026.

14. The essential facts of the search are largely common cause. The description of the atmosphere is not. The applicants describe it as intimidating with armed police on site. The police describe the applicants as evasive, requiring them to wait for Mukwevho and his lawyer to arrive. The two significant facts are that the applicants present were shown a copy of the search warrant as was their attorney, but the warrant did not contain the affidavit which Mokoena had submitted to the Magistrate, a fact I return to later.
15. On 31 July 2026, Mokoena issued an ex parte application for the issuing of a search, access or seizure warrant in terms of section 29(1)(a) of the Cybercrimes Act 19 of 2020 ("Cybercrimes Act"). Roodt says that the police process is that this warrant is only *"completed once the electronic devices or articles that are to be looked at or mirrored are in the possession of the investigators/officials mandated with the investigation. It would serve no purpose to issue this warrant in the absence of electronic devices and/or gadgets."*
16. The validity of this two-stage process was a collateral issue in the present case, but it is not necessary for me to consider it for present purposes.
17. On 3 August 2026, the second impugned search and seizure took place. This was at the home of the Muwandi's, the second and third applicants. Only Ms Muwandi was present, but she called her attorney and two of them arrived, one of whom was present at the 24 July search. Various items were seized again.

18. The seized articles (laptops and mobile phones) were then booked in at the police station. The police were then awaiting an application for the requisite warrant to be issued in terms of the Cybercrimes Act.
19. A meeting was then held on 4 August between the police, the applicants and their attorney at which warning statements were signed and the applicants invoked their right to silence.
20. The present application was launched on 4 August 2026. Short time periods were given for the respondents to reply. The third respondent, the Magistrate, timeously complied and indicated her intention to abide. What she did do was to file the documents that had been served before her on 21 July, this being the date the three warrants were issued by her. These were the minutes of the meeting, largely a pro forma document, the warrants themselves, and the affidavits in support of their issue by Mokoena. The content of these three affidavits is the same.

Urgency

21. The first point taken by the first and second respondents is that the application was not urgent as it was only made on 4 August 2026, when the search complained of had taken place on 24 July 2026. They contend that this application should have been brought much closer to the date of the first impugned search. I do not consider this a point of great substance, and it appears more of a rote response one gets in the urgent court. The applicants' delay in bringing the application was not substantial. There were attempts to deal with the police that followed, including the meeting on 4 August. If they had had their items returned it may have obviated the need for this

application. The objection is ironic given that the respondents then explain why they were not able to respond more quickly to the application, as the State Attorney has to satisfy internal processes before briefing counsel.

22. I am satisfied that the application was brought with sufficient expedition and that, although the respondents had little time to respond, they were able to file a detailed reply.

Spoliation issue

a. *Was there consent*

23. The next issue was whether the requirements for a spoliation action have been met. It is worth noting that in reply the applicants denied that they were bringing a spoliation application, but rather that it was a review. But, in final argument they reverted to relying on spoliation. It has been held that spoliation is an appropriate remedy in applications to challenge the lawfulness of seizures by the police. As explained by the Constitutional Court in an action concerning a seizure of articles by the police, there are two elements:

“All that the despoiled person need prove is that -

(a) she was in possession of the object; and

(b) she was deprived of possession unlawfully”²

24. The one defence raised by the respondents, which I deal with now, is consent. It is trite that in spoliation actions a respondent can raise consent as a

² Ngqukumba v Minister of Safety and Security and Others 2014 (5) SA 112 (CC), paragraph 13.

defence. The respondents contend that the applicants consented to handing over the impugned items with their attorneys present.

25. This point was not pursued in oral argument by counsel who appeared for the respondents, and correctly so. It ill behoves the police to encourage members of the public to resist searches, especially when what purports to be a validly issued warrant is produced.
26. The applicants may not have physically resisted handing over the seized items, but their unhappiness at doing so is quite evident and they can hardly be deemed to have consented.

b. Was the deprivation unlawful

27. It is common cause that the respondents rely on sections 20 and 21 of the Criminal Procedure Act to justify the search and seizure. The warrants purport to be issued pursuant to those provisions. If the respondents have not properly complied with the strictures of those provisions, then the deprivation that follows would be unlawful.
28. In their founding papers, the applicants had thrown the kitchen sink at the respondents, raising numerous points ranging from the meritless³ to the tenuous⁴.

³ One point since made in the founding papers, since conceded in reply, was that the affidavit had not been made under oath – this was both factually and legally incorrect – it was, and even if it had been affirmed this complies with the terms of section 2 of the Interpretation Act, 33 of 1957, which in defining the term oath says it includes an affirmation.

⁴ The applicants objected to the description of the objects as too wide, but court decisions have shown that the same description has been considered acceptable, and secondly that they were not given an inventory of the items seized, that too does not constitute a basis to impugn the search. See *Cine Films (Pty) Ltd v Commissioner of Police* 1972 (2) SA 254 (A) and *Van Rooyen & another v Minister of Police & others* 2019 (1) SACR 349 (NCK) at [53].

29. In final argument in fresh heads of argument, the applicants' counsel confined themselves to fewer issues. I do not need to consider all of them as two have merit and are uncontroversial.
30. The first is that the warrant was not accompanied by the affidavit. The applicants only saw the affidavit once the Magistrate had filed her papers. In terms of the case law, it is a requirement that the affidavit accompany the warrant so that if it is requested it can be shown to the persons being searched. This is more than formalism. The affidavit gives the addressee more information about the basis for the search, and hence its lawfulness, than does the face of the warrant.
31. In the replying affidavit, the fourth applicant states that his attorneys had sought what he describes as the "*supporting statement*" from the police but it had been refused.
32. I understand that when the fourth applicant refers to the supporting statement, this is a reference to the affidavit. In terms of section 21(1) of the Criminal Procedure Act:

"Subject to the provisions of sections 22, 24 and 25, an article referred to in section 20 shall be seized only by virtue of a search warrant issued—

(a) by a magistrate or justice, if it appears to such magistrate or justice from information on oath that there are reasonable grounds for believing that any such article is in the possession or under the control of or upon any person or upon or at any premises within his area of jurisdiction; (My emphasis).

33. There are circumstances where the failure to disclose the affidavit may compromise the legality of the search. In *Goqwana v Minister of Safety and Security NO & Others* the Supreme Court of Appeal (SCA) explained it in this way:⁵

“It is accordingly imperative that the affidavit or sworn statement in support of the warrant should accompany the warrant and be handed over together with it. This would, additionally, facilitate the expedition of any court application in which a person may wish to contend that his or her rights were adversely affected by the search. This injunction accords with the constitutionally enshrined right of every person to have access to information ‘that is held by another person and that is required for the exercise or protection of any rights.’ This right is embodied in the Promotion of Access to Information Act 2 of 2000.”

34. This case is no different. The detail on the face of the warrant says the following about the basis for the search:

“A. the following offence(s) *have been/are being/are intended to be committed, namely [set out the common law or statutory offence with applicable Act name and number as well as the relevant offence section. Also state essential facts of the offence including date/period/place/area/identified offender(s)]:

CORRUPTION ACTIVITIES TAKING PLACE AT NGAKA MODIRI MOLEMA DISTRICT MUNICIPALITY BY THE MUNICIPAL MANAGER, MAYOR AND CHIEF FINANCIAL OFFICER, WITH THE DIRECTORS OF THE SERVICE

⁵ [2015] ZASCA 186; [2016] 1 All SA 629 (SCA); 2016 (1) SACR 384 (SCA)

PROVIDER KNOWN AS CCG SYSTEMS KNOWN AS MR PHUMUDZO MUKHWEVHO, MRS MASHUDU VHUTSHILO MUKWEVHO, MR CHAKANETSA WALTER MUWADI (CEO), AND MRS ISABELA DAYLE MUWADI.⁶

35. However, in the affidavit more information is disclosed. Thus, Mokoena states there that:

“I have received an information from the whistle blower who gave information about the alleged corruption activities. The information was followed and further investigation was conducted. The above-mentioned persons are implicated in a corruption activity in Ngaka Modiri Moloma District Municipality where the mayor will receive bribes and influence the awarding of contracts/tenders in favour of the above persons company which is known as CCG Systems. Thereafter the awarded supplier will pay bribes to stay on contract which is not advertised and it will be extended without being advertised.

The search and seizure warrant is aimed at the articles/ exhibits that is reasonable suspected and believed beyond the reasonable doubt to have been used in the commission of the offence/s. The articles to be searched and seized are as follows: Documents, Computers(laptops), Cell phones, Hard drives, and any electronic Devices, or any Document or Articles that is suspected to have been used by the above-mentioned suspects in the commission of the offence/s will also be seized for the purpose of investigations and offer evidence in court during the trial.”

⁶ The text in bold type is what appears on the pre-printed form. The text in capital letter is what was filled in on the form, including the choice of capitals.

36. The cases make clear that the intelligibility of the search warrant is a crucial issue. If, as in this case, the succinct language of the warrant is made more intelligible by the language used in the affidavit, then its absence from the search documents detracts from the intelligibility of the warrant and is prejudicial to the persons who are the subject of the search.⁷
37. The second issue of legality is that the offence is not disclosed. It is now common cause that the search was intended to be based on a statutory offence, the Prevention and Combating of Corrupt Activities Act, 12 of 2004 (PRECCA). As the Constitutional Court has made clear in *Minister of Safety and Security v Van der Merwe and Others*:

“The main question in this application for leave to appeal is whether search and seizure warrants are valid, despite their failure to mention the offences to which the search relates. The answer depends on whether the common-law intelligibility principle, properly understood, requires that the offence be specified in the search and seizure warrants issued in terms of s 21 of the Criminal Procedure Act.

[55] What emerges from this analysis is that a valid warrant is one that, in a reasonably intelligible manner:

- (a) States the statutory provision in terms of which it is issued*
- (b) identifies the searcher;*
- (c) clearly mentions the authority it confers upon the searcher;*

⁷ As to the importance of intelligibility see *Powell NO and Others v Van der Merwe NO and Others* 2005 (5) SA 62 (SCA); 2005 (1) SACR 317 (SCA) at para 59.

(d) *identifies the person, container or premises to be searched;*

(e) *describes the article to be searched for and seized, with sufficient particularity; and*

(f) *specifies the offence which triggered the criminal investigation and names the suspected offender.”⁸*

38. In *Goqwana*, the case most similar to the present one, goods were seized on the grounds that the suspect person was engaged in gambling, in contravention of the relevant statute. However, the search warrant did not mention the specific section, relying instead on the particulars of the activity. The court noted:

“... there is no statutory offence known as ‘illegal interactive gambling (online gambling)’ – this being the ‘offence’ described in the search warrant. This underscores the importance of it ordinarily being desirable that when dealing with a statutory offence, as opposed to a common law crime, the warrant should pertinently refer to the specific statute and the section or subsection thereof in order to enable the person in charge of the premises to be searched (assisted, if needs be, by his or her lawyer) and also the police official authorised in terms of the search warrant to know precisely that for which the search has been authorised.”⁹

39. The same situation applies here. The warrant simply refers to corruption. But corruption is not a common law offence. As I mentioned, it is now common cause that the police intended to search and seize in terms of PRECCA.

⁸2011 (2) SACR 301 (CC), paragraph 55.

⁹ *Goqwana*, supra, at paragraph 29.

There was thus a failure to identify the statute and hence meet the requirements set out in the *Van der Merwe* case. On this basis alone, the warrant is invalid, and accordingly the search. Since all three warrants are identical in this respect (they differ only as to the addresses for the search) they are all infected by this failure and fall to be set aside.

Preservation order

40. This is a matter where the errors that have occurred are of a purely technical nature. In *Goqwana* the court referred to the judgment in *Polonyfis*, where the SCA held that a court:

“... in the absence of an ‘abuse of power’ or a ‘gross violation’ of the rights of a person to be searched, it would be slow to find that a search warrant is unlawful on purely technical grounds.”¹⁰

41. The applicants were as aware of the allegations made against them from the meeting they had with the police prior to the search being conducted, as they would have been had the affidavit accompanied the search warrant and the statutory offence been stipulated in the warrant.
42. The police are investigating matters of substantial public interest concerning the alleged corruption of public office bearers. It was no doubt for this reason that, in argument, counsel for the respondents had suggested that if I was against them on the validity of the warrant, I should grant a preservation order.

¹⁰ *Goqwana*, supra, at paragraph 32, quoting from *Polonyfis v Minister of Police* 2012 (1) SACR 57 (SCA).

This type of order has been discussed by the Constitutional Court in the *Thint* case and has been implemented in subsequent cases.¹¹

43. I discussed the issue with the applicants' counsel. He argued that the respondents never sought such a remedy in their answering papers, and therefore it would be unfair to grant one without the applicants being given an opportunity to respond.
44. Although this is a case where a preservation order would be appropriate, I am sympathetic to the applicants' argument. The request for such an order is not merely a matter of law. The nature of the order sought is one that the applicants should be given an opportunity to respond to. For instance, they would be entitled, inter alia, to be told where the goods would be kept, and on what event the continued preservation would be contingent on. These goods, after all, are the tools of trade of the applicants and their company. They had a right to be heard on these issues, and they have not been given that opportunity. For this reason, as a matter of fairness I cannot grant such an order on the present facts.
45. I was however concerned with some of the language in the proposed draft order which could have been read to be granting a final interdict against a further search. At my suggestion, the applicants agreed to amend the wording of the order sought to make clear that it was not final in relation to the search. This means that the police remain free to seek a fresh warrant, provided it complies with the applicable legal requirements.

¹¹ *Thint (Pty) Ltd v National Director of Public Prosecutions & others; Zuma v National Director of Public Prosecutions & others* 2009 (1) SA 1 (CC) at para 219. See *Mineral Sands Resources (Pty) Ltd v Magistrate for the District of Vredendal, Kroutz NO & others* [2017] 2 All SA 599 (WCC) at para 217 and *Van Den berg v Page and others* Case number: 10636/16 (WCC) June 2016 paragraphs 10- 11.

Costs

46. The applicants seek the costs of two counsel including senior counsel. Whilst I appreciate that the presence of senior counsel in their team has focussed the issues and reduced them, the fact that the applicants required this should not be paid out of the respondents' purse. This is a matter where the law was clear and a good point nearly got submerged in a sea of bad ones. The respondents did not make use of two counsel, nor of senior counsel. A fair costs order would allow the costs of one counsel on Scale B.

ORDER

It is declared that:

1. This application is urgent as provided for in Rule 6(12) of the Uniform Rules of Court and the Applicants' non-compliance with the Rules is condoned.
2. The search and seizure warrants numbered 55/2026, 56/2026 and 57/2026, issued on 21 July 2026, by the Third Respondent in terms of Section 21, read with Section 20 and Chapter 2, of the Criminal Procedure Act (Act 51 of 1977), under reference NCCIU Enquiry No: 01/04/2025, and in respect of the premises situated at:
 - 2.1. 3[...] W[...], corner I[...] and S[...] Street, H[...] G[...] Extension 31, Gauteng Province (warrant 55/2026);
 - 2.2. 1[...] M[...] Drive, 1[...] W[...] P[...], J[...] H[...], M[...], Gauteng Province (warrant 56/2026);
 - 2.3. 3[...] L[...] Drive, W[...] C[...], M[...], Gauteng Province (warrant 57/2026);

are declared unlawful and invalid and are set aside.

3. The searches and seizures conducted by the Second Respondent and other members of the First Respondent, pursuant to the above warrants, on 24 and 25 July 2026, at 1[...] M[...] Drive, 1[...] W[...] P[...], J[...] H[...], M[...]; and on 3 August 2026 at 3[...] L[...] Drive, W[...] C[...], M[...], are declared unlawful.
4. The First and Second Respondents, and any other person acting as agent on behalf of the First and/or Second Respondents who are in possession of the articles and/or items which were seized, are ordered to restore the Applicants' possession of, and to return, all articles and items removed from the aforesaid premises on 24 and 25 July 2026, and on 3 August 2026, including all and/or any copies and/or mirror images made of any of the articles and items forthwith. Insofar as it is not practical or possible to return any of the mirror images made, it is ordered that such image(s) must be destroyed forthwith.
5. The First and Second Respondents are ordered to pay the costs of this application, jointly and severally, the one paying the other to be absolved, including the costs of one counsel on Scale B in terms of Rule 67A of the Rules.

MANOIM J
JUDGE OF THE HIGH COURT
JOHANNESBURG

Appearances

For the applicants:

J Cilliers SC and WS Jungbluth

Instructed by:

G P Bouwer Attorneys

For the first and second respondents: T Langa

Instructed by: Office of the State Attorney

Date of hearing: 20 August 2026

Date of Judgment: 31 August 2026