REPUBLIC OF SOUTH AFRICA

IN THE HIGH COURT OF SOUTH AFRICA
(LIMPOPO DIVISION, POLOKWANE)

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

Naude – Odendaal J

[redacted]
SIGNATURE

03/11/2026
DATE

CASE NO: 2464/2023

In the matter between:

EMMANUEL ASSEMBLES NPO	**APPLICANT**
REG NO: 219-941	
and	
R.M. MABITSELA	**1st RESPONDENT**
M.A. SEALE	**2nd RESPONDENT**

JUDGMENT

NAUDÈ-ODENDAAL J:

[1] The Applicant instituted an application in terms whereof the applicant applied for condonation for the late filing of the replying affidavit and in the Notice of Motion in the main for a declaratory order to be issued that the National Executive Council of

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the Applicant, as elected at the September 2019 conference, and again as confirmed on 23 March 2022, be declared to be the valid, legal and only National Executive Council of the Applicant. Further, that the Respondents be interdicted from engaging in the affairs of the Applicant and/or its National Executive Council, and not to disrupt any conference meetings, church services or any affairs of the National Executive Council or the Applicant. The Applicant also applied that the Respondents be interdicted from inciting any person, faction or organization to engaging in the affairs of the Applicant and/or its National Executive Council, and not to disrupt any conference meetings, church services or any affairs of the National Executive Council of the Applicant. The Applicant further applied that the Respondents be interdicted and ordered to return possession of the conference center and offices and/or premises of the National Executive Council immediately, and to refrain from occupying or causing any person, faction or organization to occupy the conference center and offices and/or premises of the National Executive Council of the Applicant.

[2] The Applicant submitted that the National Executive Council of the Applicant has been nominated and elected according to the constitution of the Applicant. The 1st Respondent was a founding member of the Applicant, but he retired many years ago. The 2nd Respondent was also a founding member of the Applicant but retired in the year 2013.

[3] The Applicant submitted that the drama and reasons for the present application started at the Applicant's annual general conference on 24 September 2019. During

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the conference the members that attended were informed that the Applicant had been registered as a non-profit organization and such a decision was taken by the executive council of the Applicant. The house was divided on the matter and diverse views were expressed. It was then agreed that the executive council would have a meeting with the concerned elders over the registration of the Applicant as a non-profit organization.

[4] After the conference, a meeting was held on 5 February 2020. This meeting was attended by the 1st and 2nd Respondents and their dissatisfaction as to the registration of the Applicant as a non-profit organization was discussed. After this meeting, the Covid-19 pandemic broke out and the first meeting that could then be held again was on 23 March 2022.

[5] It was submitted by the Applicant that both the 1st and 2nd Respondents were present at the 23 March 2022 meeting. They once again reiterated their unhappiness about the fact that the Applicant had now been registered as a Non-Profit Organization. The National Executive then highlighted to both the Respondents that the Non-Profit Organization (NPO) was a necessary consequence of moving forward, and that they were all willing to meet with the Respondents to try and resolve any concerns that they might have had.

[6] The Applicant submitted that they secured the services of a person in Pretoria who agreed to assist in trying to explain to the Respondents what the organization as an NPO was about, but since there was still some restrictions in place as a result of the

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Covid-19 Regulations, this had to be done on a virtual platform which was declined by both Respondents. The meeting then took a turn for the worst where the 1st Respondent for instance accused one of the Applicant's co-pastors of being a liar, and the entire meeting was thrown into chaos as a result of the actions of the two Respondents.

[7] It was further submitted that it appears from the minutes of the meeting that especially the 2nd Respondent had some misinformation that apparently churches that were registered as NPO's would be compelled to conduct gay marriages, and that since he was a founding member of the Applicant, this did not carry his approval. The two Respondents further raised the issue that the National Executive took the decision to register the Applicant as a NPO by themselves, and that this was not approved by the whole assembly and congregation as such. The Applicant however agrees with the Respondents on this point, as the decision was taken by the National Executive Council to register the Applicant as a NPO.

[8] It was submitted by the Applicant that they did not need the approval of the whole congregation or even a majority vote, as this decision to register the Applicant as a NPO was part and parcel of the everyday functioning and required functions of the National Executive.

[9] Further mediation was then embarked on by the Applicant and both the Respondents. After this further meeting, the Respondents then wrote correspondence to the Applicant which created division in the church between the

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Applicant and the group that was formed by the Respondents. The Respondents then started referring to themselves as "the Remnant Founders". The Respondents then started to approach more and more members of the congregation to convince them to now become part of the association that they had erected that was known as the Remnant Founders. The Applicant attempted for several months to resolve the issues with the Respondents in a peaceful manner, but without any success.

[10] On the 17th of October 2022 the Respondents wrote a further letter which was distributed to the members of the congregation of the Applicant inviting the members to a special annual general conference meeting that was scheduled for 5 November 2022. The letter initiated the takeover of the Applicant. The two Respondents now seemed set in their way to take over the church of the Applicant despite the two Respondents being retired and the fact that they do not form part of the national executive of the Applicant or serve on any committee as such.

[11] The Applicant submitted that the Respondents therefore had absolutely no authority to call any meeting on behalf of the Applicant or in the name of the Applicant or involving the congregation or executive of the Applicant as such, and their conduct is not only against the constitution of the Applicant, but also disruptive as far as the unity of the congregation is concerned. A lot of the pastors during this time also started complaining that they are being threatened by the Respondents who were intent on sowing division and trying to create their own movement as a form of rejection of the Applicant.

[12] On the 5th of November 2022 a letter was received from the Respondents, as assumed. This letter was bearing the name of the Applicant, being Emmanuel Assemblies (Bushbuckridge), and was addressed to Emmanuel Assemblies National Office with the Applicant's NPO Registration Number in brackets thereafter. The Respondents had now resorted to act as another organization and instructed the executive committee of the Applicant to dissolve immediately and to refrain from engaging with Emmanuel Assemblies members in any way. The Respondents also emphasized that an interim committee was elected and that a motion of disbandment was based on an attached 15 point document. This letter in essence divided the Applicant with definitive action by the Respondents.

[13] The Applicant further submitted that a further letter was received, dated the 22nd of November 2022, which was now apparently sent by the Emmanuel Assemblies Highveld District, but which had the same logo as that of the Remnant Founders that was initially distributed by the Respondents. In this letter the congregation was notified of the disbandment of the executive committee and invited to the establishment of the interim district council. It is submitted by the Applicant that from the contents of this letter it is clear that the whole purpose of the letter was to take over control of the Applicant, which the Respondents and their faction ultimately did.

[14] The Applicant submitted that this new council that had now been formed, was never elected by any annual general conference, nor nominated as required by the Applicant's constitution. The Applicant was then deprived of the church, physically

and with force, and the offices of the national executive occupied by the faction started, was managed and controlled by the Respondents.

[15] The Respondents effectively after this letter of 22 November 2022, took control of all institutions relating to the national executive, and the conference center and the offices were occupied and taken by the Respondents and the faction who changed the locks to the offices, effectively preventing the Applicant's executive council from conducting their duties in the interest of the Applicant.

[16] The Respondents further went on a number of occasions from church to church to propagate the fact that the national executive of the Applicant were no longer functioning and had been disbanded by the faction of the Respondents. This created a lot of concern, confusion and division in the congregation, and delegated the national executive to bring this application.

[17] In opposition the Respondents raised three *points in limine*, being that the deponent of the founding affidavit lacks the necessary authority and has *no locus standi* to institute the application on behalf of the Applicant, secondly that the attorneys of record lacks the necessary authority to act on behalf of the Applicant and thirdly, the requirements of an interdict has not been met.

[18] The first two points *in limine* are without any merit. The Applicant attached confirmatory affidavits to its replying affidavit after the first point *in limine* was raised by the Respondents. It is clear that the whole of the executive took the decision to

bring this application. In respect of the second point *in limine*, the Respondents did not utilize Rule 7(1) of the Uniform Rules of Court as required by law. The Respondents, if they wanted to dispute the attorney's power to act, had to invoke the provisions of Rule 7(1), which they did not do. Absent a Rule 7 challenge, this point *in limine* fails.

[19] In the matter of **Eskom v Soweto City Council 1992 (2) SA 703 (W)** the following was held:-

"The care displayed in the past about proof of authority was rational. It was inspired by the fear that a person may deny that he was party to litigation carried on in his name. His signature to the process, or when that does not eventuate, formal proof of authority would avoid undue risk to the opposite party, to the administration of justice and sometimes even to his own attorney. (Compare Viljoen v Federated Trust Ltd 1971 (1) SA 750 (O) at 752D-F and the authorities there quoted.)

The developed view, adopted in Court Rule 7(1), is that the risk is adequately managed on a different level. If the attorney is authorized to bring the application on behalf of the applicant, the application necessarily is that of the applicant. There is no need that any other person, whether he be a witness or someone who becomes involved especially in the context of authority, should additionally be authorized. It is therefore sufficient to know whether or not the attorney acts with authority.

As to when and how the attorney's authority should be proved, the Rule-maker mad a policy decision. Perhaps because the risk is minimal that an attorney will act for a person without authority to do so, proof is dispensed with except only if the other party challenges the authority. See Rule 7(1). Courts should honour that approach.

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Properly applied, that should lead to the elimination of the many pages of resolutions, delegations and substitutions still attached to applications by some litigants, especially certain financial institutions."

[20] In **MEC for Department of Health North West v Shashape and Another (1105/2016) [2026] ZANWHC 215 (19 August 2026)** the following was stated:-

"The manner of challenging such authority had been decided in Eskom v Soweto City Council 1992 (2) SA 703(W) at 705C-J and confirmed by the Supreme Court of Appeal in Ganes and Another v Telecom Namibia Ltd 2004 (3) SA 615 (SCA), wherein it sets out how that challenge must be raised. Uniform Rule 7(1) allows a respondent who disputes authority to give notice within ten days of becoming aware of the apparent lack of such authority to require proof of authority. This issue is aptly dealt with by Petersen J in the judgment of this Division in Mahikeng Local Municipality v Clayton Virgil Harrison [2021] ZANWHC 87 para 19. as follows:

'In this Division the legal position is clear. Any challenge to the authority of a Municipal Manager to launch an application on behalf of a municipality must be brought by way of Rule 7(1). The respondent has not challenged the authority of the Municipal Manger by way of Rule 7(1) and the point in limine on locus standi must accordingly fail.'

[15] No Rule 7(1) notice was delivered by the first respondent. The point is raised only in the answering affidavit. Absent a Rule 7 challenge, this point in limine fails."

[21] The last point *in limine* in respect of the requirements for an interdict deals with the merits of the application and will be dealt with together with the merits.

[22] In respect of the merits, the 2nd Respondent submitted that he, as one of the founding members of the church, established the church in or around 1977. After

many people were converted, more branches were opened in various regions across the spectrum of the Republic. During 1978 the church was formally registered in Pretoria under the name and style Emmanuel Assemblies.

[23] The 2nd Respondent submitted that as per the church's norms and standards, they held elections of the National Executive Members after every two years to occupy the office for the smooth running of the church. In these elections, office bearers were elected to act as Chairperson, Secretary, Treasurer, their deputies and additional members. Once the elected members assume office, they are expected to obey and to follow the Constitution of the Emmanuel Assemblies, as they execute their mandate with care and diligence.

[24] It was submitted that the Constitution and General Rules of the Emmanuel Assemblies, Article VIII, page 4, provides that "*the governing body of the Emmanuel Assemblies shall be the General Conference constituted according to the General Rules of the Emmanuel Assemblies, with the Executive Council as its instrument of authority and administration".* In other words, the National Executive Council takes and implements the mandate of the General Conference.

[25] The Respondents submitted that this Executive Council was properly elected on or around 2019 and were disbanded due to inter alia financial mismanagement and other misconducts.

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[26] According to the Respondents, the Executive Council have behaved in an unacceptable manner which caused the division of the Church, and their demeanor of approaching this Court for an interdict, shows that they are not remorseful. The Executive Council has acted in a manner which is unbecoming.

[27] It was further submitted by the Respondents that the Executive Council has hijacked the church by registering it as a NPO without approval of the Annual General Conference. They have further refused to disclose the registration certificate despite several requests. It was further submitted that the Executive Council went on to print the Pastors credential cards with the Applicant's NPO number 219-941 without the approval of the Annual General Conference.

[28] The Respondents further submitted that the Executive Council went on to change the name Emmanuel Assemblies (Bushbuckridge) on the letter heads to Emmanuel Assemblies International and alternatively Emmanuel Assemblies National Office.

[29] The Respondents further submitted that the Executive Council has shown the lack of proper financial management and accounting. In terms of the Executive Council's financial report dated 23 March 2022 for the period of 1 October 2020 to 28 February 2022, a deficit of R735 096.41 is reflected.

[30] The Respondents submitted that a General Conference was held on 4 October 2022 with the view to discuss matters concerning the running of the Church. A consensus could not be reached on the day and an indulgence of 30 days was then given to the

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Executive Committee before formal disbandment. On the 5th of November 2022, the Executive Committee was not in attendance, they were then disbanded and an Interim Committee comprising of nine members was elected.

[31] According to the Respondents, the fact that they retired is of no consequence, they remain the founding members of the Emmanuel Assemblies (Bushbuckridge).

[32] To obtain a final interdict, the Applicant must prove all three of the following requirements on a balance of probabilities:-

32.1 A Clear Right;

32.2 An Actual or Reasonably Apprehended Injury;

32.3 The Absence of a Satisfactory Alternative Remedy.

[33] In this court's view, the Respondents managed to prove all the requirements on a balance of probabilities to obtain a final interdict. The Respondents acted without authority and took the law in their own hands when they hijacked the Applicant. The Respondents are disgruntled as to how the Applicant has evolved over the years since 1978 when they founded the Applicant and now wants to take over control and run and control the Applicant as they believe it should be relying on the mere fact that they were the initial founders of the church. This can never be. The Respondents have resigned and are no longer serving on the Executive.

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[34] The only issue remaining is the question of costs. The Applicant applied for costs on an attorney and client scale. In this court's view attorney and client costs are not justified, however considering the language used in the Answering Affidavit and the slandering remarks made without a single shred of proof, a punitive cost order is indeed justified. In my view, costs on Scale C of Uniform Rule 67A read with Uniform Rule 69, in the circumstances are justified.

[35] In the result, the following order is made:-

35.1 Condonation for the late filing of the Replying Affidavit is granted.

35.2 It is declared and a declaratory order is issued that the National Executive Council of the Applicant, as elected at the September 2019 conference, and again as confirmed on 23 March 2022, is the valid, legal and only National Executive Council of the Applicant.

35.3 The Respondents are interdicted from engaging in the affairs of the Applicant and/or its National Executive Council, and not to disrupt any conference meetings, church services or any affairs of the National Executive Council or the Applicant.

35.4 The Respondents are interdicted from inciting any person, faction or organisation to engaging in the affairs of the Applicant and/or its National Executive Council, and not to disrupt any conference meetings, church services or any affairs of the National Executive Council or the Applicant.

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35.5 The Respondents are interdicted and ordered to return possession of the conference centre and offices and/or premises of the National Executive Council immediately, and to refrain from occupying or causing any person, faction or organization to so occupy the conference centre and offices and/or premises of the National Executive Council of the Applicant.

35.6 The Respondents are ordered to pay the Applicant's costs, which costs are to be taxed and paid on Scale C, jointly and severally, the one to pay, the other to be absolved.

[redacted]

M. NAUDÉ-ODENDAAL

JUDGE OF THE HIGH COURT,

LIMPOPO DIVISION,

POLOKWANE

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APPEARANCES:

DATE OF HEARING:	12 AUGUST 2026
DATE OF JUDGMENT:	3 NOVEMBER 2026

For the Applicant:	Adv. J. De Necker
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For the 1st and 2nd Respondents:	Mr. KN Maleka
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