IN THE HIGH COURT OF SOUTH AFRICA

(EASTERN CAPE DIVISION, MTHATHA)

Reportable

Case no: 2607/2022

In the matter between:

THULANI PATRICK SITHELO	**1ST APPLICANT**
SITHELO ROYAL FAMILY	**2ND APPLICANT**
and	
PREMIER OF THE EASTERN CAPE PROVINCE	**1ST RESPONDENT**
MEC FOR COOPERATIVE GOVERNANCE AND TRADITIONAL AFFAIRS	**2ND RESPONDENT**
GWADISO / KHIWA ROYAL FAMILY	**3RD RESPONDENT**
DUMISANI GWADISO	**4TH RESPONDENT**
MPUMALANGA GWADISO	**5TH RESPONDENT**
THOZAMILE SITHELO	**6TH RESPONDENT**

Date heard: 07 March 2024
Date delivered: 09 April 2024

JUDGMENT

Notyesi AJ

Introduction

[1] Justice Khampepe, writing a majority judgment on behalf of Justices of the Constitutional Court once remarked –

‘Like all things in life, like the best times and the worst of times, litigation must, at some point, come to an end…’[1]

[2] The parties to the present application have a long history of litigation. Their unending legal dispute is about the incumbency of the headmanship for Lower Ndungunyeni Administrative Area, Ngqeleni. There had been no less than three court applications between the parties. In 2020, the applicants launched proceedings against the first, second, third and fifth respondents seeking for a relief that the first and second respondents should be compelled to recognise the first applicant to be the headman of Lower Ndungunyeni Administrative Area. Jolwana J found that there was an undue delay and dismissed the application. A previous application launched under case number 4159/2018 was withdrawn by the applicants.

[3] Madlanga J once remarked[2] -

‘Hopefully this is the final round of this sorry saga of bitter litigious feuding between two brothers. At its centre is what Van Oosten J of the High Court of South Africa, Gauteng Division, Pretoria described as a dispute “embedded in rivalry, jealously, greed and hatred”.’

[4] The applicants, third, fourth, fifth and sixth respondent are the decedents of Khonjwayo, the founder of Amakhonjwayo tribe. They are all resident at Ngqeleni. The headmanship of Ndungunyeni Administrative Area is what splits the brothers. Surely, the community would be susceptible as a result of the dispute.

[5] In these proceedings, the applicants are seeking for an order declaring the first applicant to be the only rightful and legitimate heir to the position of headman of Lower Ndungunyeni Administrative Area. The applicants are also seeking further ancillary reliefs in their notice of motion. At the commencement of the hearing, the

[1] *Zuma v Secretary of the Judicial Commission of Inquiry into Allegations of State Capture, Corruption and Fraud in the Public Sector Including Organs of State and Others* [2021] ZACC 28; 2021 (11) BCLR 1263 (CC) para 1

[2] *Penwill v Penwill NO and Others* [2020] ZACC 17 at para 1

applicants abandoned the request for further reliefs and only persevered with the relief for the declaratory of the first applicant as the headman of the area.

[6] The relief is opposed by the third to sixth respondents on the basis that the applicants have failed to meet the requirements for the grant of condonation in respect of the late institution of the proceedings and that the matter has already been determined by the court.

[7] On a proper conspectus, there are three questions to be determined –

(a) whether or not the applicants had met the requirements for the grant of condonation; and, if so;

(b) whether or not the matter is *res judicata;*

(c) if the matter is not *res judicata*, whether or not the applicants have made out a case for the relief.

[8] I do point out that the first two questions are independently dispositive of the matter should the court uphold the contentions of the opposing respondents.

Parties

[9] For the sake of convenience, I will simply refer to the applicants as '*Mr Sithelo'* and *'Sithelo Royal Family'*. The respondents would be referred to as '*The Premier*', *'The MEC', 'Gwadiso / Khiwa Royal Family', 'Chief Dumisani Gwadiso'* and the other respondents shall be referred to as they appear from the pleadings.

Background

[10] The dispute is about the headmanship of Lower Ndungunyeni in the district of Ngqeleni. Lower Ndungunyeni is part of Amakhonjwayo Traditional Community. The traditional council for the traditional community is known as Amakhonjwayo Traditional Council. The royal family for the senior traditional leader of Amakhonjwayo is the Khiwa Royal Family, often referred to as 'Khiwa Royal Family'.

In the founding affidavit, Mr Sithelo described himself as a direct descendent in the royal lineage of Amakhonjwayo.

[11] According to Mr Sithelo, he is the son of Hlathikhulu, who was the headman of the area. During 2014, when the health of Mr Sithelo's father deteriorated, he was installed as a core regent. On the passing of his father, he was identified by the Sithelo Royal Family, to succeed his late father. His father had died on 26 August 2016. Mr Sithelo has alleged that the Sithelo Royal Family is independent from the Khiwa Royal Family.

[12] According to Mr Sithelo, his royal family submitted resolutions to the Premier and the MEC for his recognition after he had been identified. On 22 August 2017, the Premier and the MEC published a Government Gazette expressing their intention to recognise him as the headman for Ndungunyeni. Chief Dumisani Gwadiso filed an objection against the intended recognition. Upon receipt of the objection, the Premier and the MEC declined his recognition. The recognition process was then referred to the Eastern Cape House of Traditional Leaders ('*The House*") for investigation. The House found in favour of Mr Sithelo. The Premier and the MEC still did not recognise him.

[13] Unhappy with the act of his non-recognition, Mr Sithelo launched an application to compel the Premier and the MEC under case number 4159/2018. Mr Sithelo was successful in his application. The Khiwa Royal Family and Chief Dumisani Gwadiso challenged the order granted in favour of Mr Sithelo. The order was subsequently rescinded. In rescinding the court order, the court found that there was a non-joinder of interested parties. The recognition of Mr Sithelo was accordingly terminated. He was removed as a headman of Lower Ndungunyeni. The sixth respondent, Mr Thozamile Sithelo, is the acting headman of Lower Ndungunyeni, having been identified by the Khiwa Royal Family.

[14] On 26 August 2020, the applicants launched another application under case number 2779/2020. In that application, the following reliefs were sought –

‘1. That the first and second respondents’ refusal to consider and decide the royal family’s resolution of the first applicant in culmination for the recognition of the second applicant in line with the recommendations of the house of traditional leaders dated 22 March 2017 to be the headman of Lower Ndungunyeni Administrative Area in the district of Ngqeleni be reviewed and set aside.

2. That upon the decision for the recognition by the first respondent in paragraph 1 *supra* the second respondent must process all the administrative processes like publication in the Government Gazette upon culmination for payment, after the due process such payment be effected within (30) thirty days.

3. That the second and fourth applicant (sic) be and are hereby interdicted from interfering with the affairs of Sithelo Royal Family specifically (sic) the process of royal family resolutions forthwith.

4. That the refusal by the first, second, third and fourth respondents to do so be declared invalid, unlawful and without any legal cause.

5. That the respondents pay costs of this application the one paying the other to be absolved.’

[15] On 17 August 2021, Jolwana J dismissed the applicants’ application with costs. In dismissing the application, Jolwana J made the following remarks –

” [25] Some of the problems are that the 90-day period referred to in section 5(1) of the PAJA would, if calculated 30 days after the 22 March 2017, end in July 2017. I interpose here to again make mention of the fact that the applicants rely on the respondents’ failure to implement the resolution of the Eastern Cape House of Traditional Leaders and not TP29, the second respondent’s letter dated 18 May 2018. I must emphasize that in his founding affidavit the second applicant does not even mention that a decision was ever taken to recognise him and that he got paid as a headman of Lower Ndungunyeni. It seems to me that if the applicant wanted to rely on the letter from the Eastern Cape House of Traditional Leaders (TP28) to advance his cause of action in any way he wanted to, he then needed to deal with the fact that he only applied to this Court in these proceedings in August 2020. He should have dealt with that issue in the founding affidavit.”

[16] Jolwana J concluded as follows –

“[28] As I have said before, the applicants elected not to apply for an extension of the 180-day period, or for the condonation of any delay even out of caution, if they believed that it was not necessary. They have not done so. On the authority of *Opposition to Urban Tolling Alliance* which was cited with approval by the Constitutional Court in *ASLA Construction*, this Court has no jurisdiction to even entertain the review application and therefore, this application stands to be dismissed on this ground alone. There cannot even be considerations of what is in the interests of justice, absent the issue being pleaded and a condonation application being made as even the interests of justice cannot be determined in a vacuum.”

[17] On 7 June 2022, Mr Sithelo and the Sithelo Royal Family launched the present proceedings seeking the following reliefs –

'1. That the first applicant is declared to be the only rightful and legitimate *heir* which has been duly identified by the second applicant to the position of Headman of Lower Ndungunyeni Administrative Area in Ngqeleni.

2. That the decision of the second respondent to terminate the recognition of the first applicant as the headman of Lower Ndungunyeni Administrative Area in Ngqeleni through a letter dated 24 March 2020 is reviewed and set aside.

3. The first and second respondents are hereby ordered to within fifteen (15) days of the granting of this order to terminate the unlawful recognition of Thozamile Sithelo and to withdraw the certificate of recognition issued to him in October 2020 unlawfully recognising him as the Acting Headman of Lower Ndungunyeni Administrative Area in Ngqeleni on behalf of the fourth respondent and to immediately cease all monthly payments to him upon being served with this order.

4. The first and second respondents are hereby ordered to within ten (10) days after the termination as ordered in 3 above, to reinstate the certificate of recognition issued to the first applicant on 15 May 2019 which recognises him as the rightful and legitimate headman of Lower Ndungunyeni Administrative Area, in Ngqeleni.

5. The first and second respondents are ordered to pay the first applicant all outstanding emoluments calculated from the 15th June 2020 as occasioned by the unlawful termination of his headmanship on the 24th March 2020.

6. That the late filing of this application against the decision of the first and second respondents to terminate the headmanship of the first applicant dated 24th March 2020 is hereby condoned.

7. That the 3rd, 4th, 5th and 6th respondents are ordered to refrain from meddling and interfering with the 1st applicant in the execution and performance of his duties as the Headman of Lower Ndungunyeni and are further restrained from imposing themselves in the affairs of the said Administrative Area which is under the jurisdiction of the applicants.

8. That the costs of this application be paid by the 1st and 2nd respondents on the normal party and party scale the one paying the other to be absolved from liability and such costs to include costs of two Counsel.

9. That the 3rd, 4th, 5th and 6th respondents pay costs on an attorney and client scale, the one paying the other to be absolved from liability only if they oppose this application unsuccessfully.'

[18] In opposing the present application, Chief Gwadiso and the third respondent had raised the special plea of *res judicata*. They contend that when a matter has been finally adjudicated upon, a litigant cannot ask the court to rehear the same matter. In this regard, Chief Gwadiso and the third respondent had submitted that

there is a final judgment based on the merits of the present application and that judgment was delivered by Jolwana J on 17 August 2021. According to Chief Gwadiso and the third respondent, the judgment of Jolwana J was between the same parties and in respect of the same relief which is sought by the applicants. They had submitted that in that judgment, Jolwana J had upheld the defence of undue delay and dismissed the review application. In addition to their submission of *res judicata*, Chief Gwadiso and the third respondent submitted that the applicants have woefully failed to meet the requirements for condonation in respect of the late launch of this review application and that too, the present application should be dismissed. On the merits, Chief Gwadiso and the third respondent submitted that the applicants have failed to make out a case and that there is a huge dispute of fact regarding the existence of the second applicant as a royal family. On this basis, Chief Gwadiso contended that whatever resolution that was made by the second applicant regarding the identification of Mr Sithelo was illegal. According to Chief Gwadiso, there is no Sithelo Royal Family and that the second applicant is a mere bogus royal family.

The condonation

[19] In their notice of motion, the applicants are seeking for condonation in respect of the late filing of the application against the decision of the Premier and the MEC regarding the termination of Mr Sithelo's recognition as a headman. The recognition of Mr Sithelo was terminated on 24 March 2020. In support of condonation, the applicants attributed the delay to their previous attorney, Mr Mkhongozeli. In this regard, they allege that Mr Mkhongozeli was careless and incompetent in his handling of their instructions. They had instructed Mr Mkhongozeli to institute the application timeously.

[20] In the founding affidavit, serious allegations of gross negligence, incompetence and carelessness of a high degree are recurrently levelled against Mr Mkhongozeli. In support of their allegations, the applicants rely on the remarks of Jolwana J in the judgment under case number 2779/2020. For the sake of convenience, I deem it appropriate to quote the relevant passage from the founding affidavit –

‘Fortunately, this unprofessional conduct has been laid bare in the judgment which I have detailed above. His incompetence continued to prejudice me in that even after my last application was dismissed, I kept pushing him to advise me on what he was planning to do next. He kept advising me that he would revert to the case he had withdrawn where he was given a lifeline by Justice Mjali to file a Supplementary Affidavit in that case. I again deferred to his wisdom and waited on him to do what he had advised to salvage the case.’

[21] The judgment of Jolwana J was delivered on 17 August 2021. The present proceedings were only instituted on 7 June 2022. There is no detailed account from the applicants regarding their own steps that they took from 17 August 2021 until they launched this application. The only allegations made in the founding affidavit are that Mr Mkhongozeli was incompetent and negligent. Mr Sithelo, in the founding affidavit, make the following further allegations –

‘It was only towards the end of April 2022 that another royal traditional leader colleague of mine planted the idea of swapping attorneys. He went on to recommend a replacement attorney whose work I was already familiar with as he is presently handling a case on behalf of an organisation of royal traditional leaders of which I am a member. I then decided to approach this attorney to enquire on whether he would be available and willing to take over my case. I placed the call to him on the 25th April and briefed him about my case and my intention of procuring his services.’

[22] It is trite that a party seeking for condonation, is asking for an indulgence of the court. In such circumstances, it has become trite that the court must exercise the discretion judicially on consideration of the facts of each case and subject to the requirement that the applicant shows good cause for the default. In *United Plant Hire (Pty) Ltd v Hill*[3] the Supreme Court of Appeal found that in essence, it is a question of fairness to both sides.

[23] In *Pieter Westerman Colyn v Tiger Foods Industries Ltd t/a Meadow Feed Mills Cape*[4], Jones AJA held –

[3] *United Plant Hire (Pty) Ltd v Hill*, 1976 (1) SA 717 (A) at 720 E-G

[4] *Pieter Westerman Colyn v Tiger Foods Industries Ltd t/a Meadow Feed Mills Cape,* 2003 (6) SA 1 (SCA)

'The authorities emphasize that it is unwise to give a precise meaning of the term good cause. As Smallberger J put it in *HDS Construction (Pty) Ltd v Wait*[5]-

When dealing with words such as "good cause" and "sufficient cause" in other Rules and enactments the Appellate Division has refrained from attempting an exhaustive definition of their meaning in order not to abridge or fetter in any way the wide discretion implied by these words (*Cairns' Executors v Gaarn 1912 AD 181 at 186; Silber v Ozen Wholesalers (Pty) 1954 (2) SA 345 (A) at 352-3*). The Court's discretion must be exercised after a proper consideration of all the relevant circumstances.'

[24] In *Van Wyk v Unitas Hospital (Open Democratic Advice Centre as Amicus Curiae)*[6], the Constitutional Court held that an applicant for condonation must give a full explanation for the delay which must not only cover the entire period of the delay but must also be reasonable. The factors enumerated in the case are not individually decisive but are interrelated and must be weighed one against the other, thus a slight delay and a good explanation may help to compensate for prospects of success which are not strong.

[25] The Supreme Court has warned against penalising a blameless litigant on account of his attorneys' negligence. In *Saloojee and Another NNO v Minister of Community Development*[7] it was held –

'To hold otherwise might have a disastrous effect upon the observance of the Rules of this Court. Considerations *ad misericordiam* should not be allowed to become an invitation to laxity… The attorney, after all, is the representative whom the litigant has chosen for himself, and there is little reason why, in regard to condonation of a failure to comply with a Rule of Court, the litigant should be absolved from the normal consequences of such a relationship, no matter what the circumstances of the failure are.'

[26] In my view, the *Saloojee* case had confirmed that there is a limit beyond which a litigant cannot escape the result of his attorney's lack of diligence. The day has come for the litigant to take responsibility of the choices he has made regarding his own legal representation. In the present case, whilst the applicants put blame to

[5] *HDS Construction (Pty) Ltd v Wait*, 1979 (2) SA 298 (C)
[6] *Van Wyk v Unitas Hospital (Open Democratic Advice Centre as Amicus Curiae),* 2008 (2) SA 472 (CC) at 477E
[7] *Saloojee and Another NNO v Minister of Community Development* 1965 (2) SA 135 (A) at 141C-E

Mr Mkhongozeli, they failed to give a detail account about their own actions consequent to the delivery of the judgment by Jolwana J on 17 August 2021. The applicants give a flimsy excuse that they often attended to Mr Mkhongozeli's office asking him about his next course of action. They suggest that they waited until April 2022 when a traditional leader of their royal family had suggested for the change of the attorney. Again, there is paucity of information regarding the steps that were taken from April 2022 until 7 June 2022 when the application was eventually launched. What is further perplexing is that the applicants suggest that they read the judgment by Jolwana J, where their attorney was criticised. The applicants rely on the criticism against the attorney in the Jolwana J judgment. That judgment was delivered in August 2017. There is no explanation about what the applicants did after reading the judgment, other than a suggestion that they continued to approach the Mr Mkhongozeli's office. I find this explanation highly unconvincing and unreasonable. It must be rejected.

[27] In *Unitrans Fuel and Chemical (Pty) Ltd v Dove-Co Carriers CC*[8] the court held that when dealing with an application for condonation, it should require, among other things, that the entire period of the delay be thoroughly explained, regardless of the length of the delay.

[28] I agree with Ms *Msindo*, counsel for the third to sixth respondents that the explanation given by the applicants is inherently poor and it amounts to no explanation.

[29] Mr *Tyopo*, counsel for the applicants, was unable to convince this Court on any grounds upon which condonation can be granted. I also consider that the prospects of success in the review are extremely weak. First, Jolwana J had dismissed the similar application after a finding that there was an undue delay. The effect of that finding was the finality of the dispute between the parties. I reject the submission by Mr *Tyopo* that the defence of undue delay was a mere technicality which did not dispose the litigation between the parties. The fact of the matter is that

[8] *Unitrans Fuel and Chemical (Pty) Ltd v Dove-Co Carriers CC,* 2010 (5) SA 340 (GSJ) at 344F-G and 345A-B

Jolwana J had found that there was undue delay and non-compliance with the provisions of PAJA. He correctly, in my view, relied on the authority of *Opposition to Urban Tolling Alliance.*

[30] In *Buffalo City Metropolitan Municipality v ASLA Construction (Pty) Ltd*[9] it was held –

" The standard to be applied in assessing delay under both PAJA and legality is thus whether the delay was unreasonable. Moreover, in both assessments the proverbial clock starts running from the date that the applicant became aware or reasonably ought to have become aware of the action taken. However, it is important to note that the assessment is not same. A distinction between the assessments of the delay under PAJA versus the principle of legality turns on the prescribed time period of 180 days. This distinction was succinctly described by the Supreme Court of Appeal in *Opposition to Urban Tolling Alliance*, which found that section 7 creates a presumption that a delay longer than 180 days is "*per se* unreasonable':

"At common law application of the undue delay rule required a two-stage enquiry. First, whether there was an unreasonable delay, and second, if so, whether the delay should in all the circumstances be condoned… Up to a point, I think, s 7(1) of PAJA requires the same two stage approach. The difference lies, as I see it, in the legislature's determination of a delay exceeding 180 days as *per se* unreasonable. Before the effluxion of 180 days, the first enquiry in applying s 7(1) is still whether the delay (if any) was unreasonable. But after the 180-day period the issue of unreasonableness is predetermined by the legislature; it is unreasonable per se. It follows that the court is only empowered to entertain the review application if the interests of justice dictate an extension in terms of s 9. Absent such extension the court has no authority to entertain the review application at all. Whether or not the decision was unlawful no longer matters. The decision has been "validated" by the delay."

[31] I may as well mention that the applicants have not made out a case on the merits. The existence of the Sithelo Royal Family is seriously challenged and in light of the dispute of fact, the Court would not be in a position to grant the relief that Mr Sithelo should be declared to be the only rightful and legitimate heir as headman of Lower Ndungunyeni Administrative Area in Ngqeleni. The Act requires that a person

[9] *Buffalo City Metropolitan Municipality v ASLA Construction (Pty) Ltd,* 2019 (4) SA 331 (CC) at para 49

must be identified by a royal family. There is a doubt that the Sithelo Royal Family is legitimate. The applicants did not seek for the referral of the matter for oral evidence. The facts do not justify the grant of such a relief.

[32] The other problem for the applicants is that during the hearing of the review, Mr *Tyopo* had abandoned the relief that the recognition of Mr Thozamile Sithelo be set aside. In my view, the court cannot grant a declaratory without consequential relief. Mr Sithelo cannot be appointed whilst there is a serving headman in the position. Until the appointment of Mr Thozamile Sithelo is set aside, the first applicant cannot be headman for Lower Ndungunyeni Administrative Area. This is another reason why the application must fail. There were no facts placed before Court to suggest that the interests of justice permit for the overlooking of the delay. The delay is excessively long. The applicants have delayed by approximately 10 months calculating from 17 August 2021 to 7 June 2022.

Res judicata

[33] In his judgment, Jolwana J described the matter before him as follows –

‘This matter concerns the incumbency of the headmanship of Lower Ndungunyeni Administrative Area (Lower Ndungunyeni) in the district of Ngqeleni. Lower Ndungunyeni is part of and falls under Amakhonjwayo Traditional Community which is under the Amakhonjwayo Traditional Council. The royal family of Amakhonjwayo Traditional Council is the Khiwa Royal Family.’

[34] There can be no doubt that the issue that Jolwana J has to determine was the incumbency of headmanship for Lower Ndungunyeni. The dispute was between the present applicants and the respondents. The relief sought was substantially the same relief that the applicants are seeking in the present proceedings. I do consider the question of whether the matter is *res judicata* or not.

[35] When dealing with the issue of *res judicata* -

[13] “the first question is to determine whether, as a matter of fact, the same issue of fact or law which was determined by the judgment of the previous court is before another court for

determination. This is so because if the same issue (*eadem quaestio)* was not determined by the earlier court, an essential requirement for a plea of *res judicata* in the form of issue estoppel is not met. There is then no scope for upholding the plea. It does not, however, necessarily follow, that once the inquiry establishes that the same issue was determined, the plea must be upheld. That is so because the court considering the plea of issue of estoppel is, in every case, concerned with a relaxation of the requirements of *res judicata*. It must therefore, with reference to the facts of the case and considerations of fairness and equity, decide whether in that case, the defence should be upheld.[10]

[36] By now, it is well settled that the requirements for the defence of *res judicata* are that there must be (a) a concluded litigation; (b) between the same parties; (c) in relation to the same subject matter and based on the same cause of action. Our courts have insisted on three things that must be met, (i) prior litigation culminating in a final judgment; (ii) the judgment must have final effect; (iii) and must be on the merits of the substantive issue. In my view, all these requirements have been met in this case in that there was litigation between the parties and that litigation culminated in the judgment of Jolwana J and the judgment of Jolwana J has a final effect. I accordingly agree with Ms *Msindo* that the litigation between the parties is *res judicata* and that the defence has been properly raised. I reject the submissions by Mr *Tyopo* to the contrary.

Costs

[37] The general rule is that costs should follow the results. The first and second respondents did not oppose the application. Only the third to sixth respondents have successfully opposed the application. The opposing respondents are entitled to their costs. I have considered to grant a punitive costs order for many reasons. First, the applicants brought a serial number of court actions against the respondents. All those court actions were brought without proper investigation. Gratuitous allegations have been made without proper facts. The applicants appear to be litigation enthusiasts who will stop at nothing. The respondents are subjected to never ending court litigation on a matter that had clearly been resolved by the court. However, Ms *Msindo* did not insist on a punitive costs order. Had she insisted, I would have

[10] *Democratic Alliance v Brummer* (793/2021) [2022] ZASCA 151 (3 November 2022)

granted such order. Notwithstanding my remarks, I will grant a normal costs order in favour of the opposing respondents.

Conclusion

[38] For all the reasons set out above, the application must fail. The applicants have not succeeded in the condonation application and the defence of *res judicata* is also upheld.

Order

[39] In the result, I make the following order –

(1) The application is dismissed.

(2) The first and second applicants are ordered to pay costs of the third to sixth respondents jointly and severally, the one paying the other to be absolved.

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M NOTYESI

ACTING JUDGE OF THE HIGH COURT, EASTERN CAPE DIVISION

APPEARANCES

Counsel for the Applicants	:	*M Tyopo* *c/o Sabela Lubando & Associates* Mthatha
Counsel for the Third to Sixth Respondents	:	*Adv Msindo*
Attorneys for the Third to Sixth Respondents	:	*V V Msindo & Associates* Mthatha