Reportable:	YES/NO
Circulate to Judges:	YES/NO
Circulate to Magistrates:	YES/NO
Circulate to Regional Magistrates:	YES/NO

IN THE HIGH COURT OF SOUTH AFRICA

NORTHERN CAPE DIVISION, KIMBERLEY

Case No: 2248/2019

In the matter between:

MINISTER OF DEFENCE	Applicant
and	
KHOSIS COMMUNITY	1st Respondent
ALL OTHER PERSONS OCCUPYING PORTION OF LOHATLA MILITARY BASE (KHOSIS AREA)	2nd Respondent
TSANTSABANE LOCAL MUNICIPALITY	3rd Respondent
GA-SEGONYANE LOCAL MUNICIPALITY	4th Respondent

Coram: Lever J

JUDGMENT

Lever J

1. This is an application to evict the first and second respondents from a military training ground in the Northern Cape. There is a long history that precedes the matter. The history will be dealt with where it is relevant to the case put before this court.

2. The matter was first argued before me on the 19 February 2021. At the end of oral argument, there were two issues raised in the papers that concerned me. The first was whether the correct local authority had been cited at that stage of the proceedings. The second issue was whether those that were entitled to compensation had in fact been compensated. On the 19 February 2021 I made the following order to partially deal with my concerns:

> "1) The applicant is given 5 weeks from today to furnish satisfactory evidence from the Land Demarcation Board or the appropriate Government Gazette supported by an appropriate affidavit to establish which Local Municipality is responsible for the geographical area where the respondents currently reside, known as the Khosis area.
> 2) The first and second respondents will be given two weeks from the date on which the applicant supplies the information contemplated in Order 1 above to deal with such evidence.
> 3) Should the applicant fail to provide the evidence sought in Order 1 above within the contemplated time period I will issue an Order of Absolution from the Instance with costs in favour of the first and second respondents.
> 4) The matter is postponed *sine die* and judgment is reserved pending the fulfilment of the orders set out above."

3. On the 25 March 2021, in compliance with the said order quoted above, the applicant filed the affidavit of MALETE DANIEL SEBAKE (Mr Sebake). Mr Sebake described himself as an adult male Senior Manager:

Operations Technology employed by the Municipal Demarcation Board. Mr Sebake purported to confirm that the first and second respondents resided in the area that fell under the authority of the Tsantsabane Local Municipality.

4. Then on the 21 April 2021 the first and second respondents filed an affidavit showing that Mr Sebake was dealing with a property with a similar name, but which had nothing to do with the present application.

5. Then in an interlocutory application whose Notice of Motion is dated 18 August 2021, the applicant sought leave to re-open its case and join as a fourth respondent the Ga-Segonyane Local Municipality. The founding affidavit in this application to re-open the case was deposed to by BRIGADIER GENERAL DIAMOND MESHAK MADIE (the General). The General deposed that after receiving the first and second respondents answer to Mr Sebake's affidavit, they referred the evidence provided by the first and second respondents to the Demarcation Board for their consideration. On the strength of the information provided by the first and second respondents, the Demarcation Board, according to the General, changed their position. It is on this basis that the applicant sought to re-open its case and join the Ga-Segonyane Local Municipality as the fourth respondent.

6. The General expressed the view that as nobody was able to produce an official document confirming which Local Authority carried responsibility, he still had his doubts. It was on this basis that the

applicant sought to join the Ga-Segonyane Local Municipality as the fourth respondent.

7. Initially, the first and second respondents opposed this application to re-open the case and join the fourth respondent. However, the first and second respondents never filed an answering affidavit. Then on the 11 March 2022 the first and second respondents withdrew their opposition to the application to re-open and join the Ga-Segonyane Local Municipality. On the same date the first and second respondents also filed a Notice to Abide the decision of the court in the said application to re-open and join the fourth respondent.

8. The matter was set down before me on the 18 March 2022. I then made an Order in the following terms:

> "1) Leave be and is hereby granted to re-open its case under case number 2248/2019.
> 2) The Fourth Respondent (Ga-Segonyane Local Municipality) be and is hereby joined in the main application under case number 2248/2019.
> 3) The Applicant be and is hereby granted leave to file a further affidavit incorporating only averments relating to the Fourth Respondent within ten (10) days of the date of the order in this application.
> 4) The Fourth Respondent be and is hereby ordered to file its answering affidavit within fifteen (15) days of the receipt of the further affidavit as stated in prayer 3 of the notice of motion, if it intends to oppose the main application under case number 2248/2019.
> 4a) The First and Second Respondent may file a further affidavit if it is necessary for them to respond to any new matter that may emerge from either the Applicant's or the Fourth Respondent's affidavits filed as a result of this order. The First Respondent and the Second Respondent shall have 15 days

from the date that the Fourth Respondent files its affidavit or such affidavit becomes due.

5) There is no order as to costs."

9. Neither Third nor the Fourth Respondents opposed the main application. They also did not file any affidavits in this application.

10. The parties then informally requested some time to enter into negotiations with each other. This request was informally accommodated.

11. Then on the 29 July 2022 the applicant filed two memoranda from the Commission on Restitution of Land Rights. The first memorandum is dated the 14 March 2022 and relates to the Gatlhose Community claim. The second memorandum is dated the 9 May 2022 and refers to the case number of the present matter. These memoranda deal with the compensation question, which is the second issue referred to above with which I had and still have concerns.

12. On the 17 August 2022 the first and second respondents' attorney responded to the said memoranda. It is clear from the said response that the question of compensation has not been resolved. Should this court grant an eviction as sought by the applicant, it remains one of the questions that has to be managed by this court.

13. I addressed a letter dated 31 August 2022 to the litigating parties inviting them to a conference in my chambers at a mutually convenient time.

14. Then on the 12 September 2022 as I had requested, representatives of the applicant and the first and second respondents attended a meeting in my chambers. The applicant was represented by Ms Unibe and the respondent was represented by Mr Motlhamme. At the conclusion of this meeting, I issued the following directive:

> "1) The applicant and the first and second respondents are to make representations to me on whether it is appropriate that this court make an order as part of its structured order that any eviction that might result from the application be suspended until this court is satisfied that appropriate compensation has been made (monetary or comparable land) to the first and second respondents entitled to such compensation.
> 2) Such representations should also address the form that such structured order on the question of compensation should take.
> 3) Such submissions will be written submissions.
> 4) The applicant to file such written submissions on or before the 31 October 2022.
> 5) The first and second respondents to file their written submissions on 30 November 2022."

15. Neither the applicant nor the first and second respondents made the written submissions sought in the above directive.

16. Preceding the current eviction application herein, the applicant and the Premier of this Province sought a declaratory order before the Land Claims Court (LCC) invoking the provisions of section 34 of the

Restitution of Land Rights Act[1] that no part of the reserves known as the Maremane and Gatlhose shall be physically restored to any claimant. The Land Claims Court granted such Order substantially in the terms sought.[2] The matter went on appeal to the Supreme Court of Appeal (SCA), who dismissed the appeal.[3] Thereby upholding the ruling of the LCC.

17. This is the background in which I write the present judgment.

18. The first and second respondents opposed the application for eviction, principally on preliminary matters, being: a pending eviction application launched in 1993 that was stayed pending a restitution claim in respect of the relevant land; a claim that the first and second respondents acquired the relevant land by way of acquisitive prescription and that the right to evict the first and second respondents had prescribed; the applicant had failed to disclose a cause of action; the court does not have jurisdiction to entertain this matter; the deponent to the applicant's founding affidavit lacks the authority to bring this application; the applicant did not comply with section 4(2) of the PIE Act; and the municipality having jurisdiction over the land in question was not joined.

19. Turning first to the plea of *Lis Alibi Pendens,* the applicant admits that indeed the applicant brought an eviction application in 1993.

[1] Act 22 of 1994.
[2] Min of Defence & Another v Khosis Community at Lohatla & Others Case No: LCC 16/97 and in which judgment was handed down 26 August 2002.
[3] Khosis Community at Lohatla & 2 Others v Min of Defence & 4 Others, Case No: 665/2002 and in which judgment was handed down on the 18 March 2004.

However, the applicant goes on further to add that indeed the matter was stayed pending the outcome of the restitution proceedings but that currently no one could trace the said 1993 eviction application. The applicant asserts that the first respondent who raises the issue has not supplied a copy of the Notice of Motion in that 1993 application and by implication has also not supplied the case number of the 1993 application.

20. Mr Mene SC who appeared for the applicant submitted, firstly, that the first respondent who has the onus of proof has not discharged that onus by not producing a Notice of Motion with a case number on it. Secondly, having regard to the lapse of time from 1993 and the fact that the 1993 application cannot be traced, the practical effect of allowing a plea of *lis alibi pendens* to succeed in those circumstances would be a permanent bar on the applicant from bringing a new application for eviction. Mr Mene submitted that such an approach cannot be sustained in the circumstances.

21. Mr Mene's first submission on the onus of proof cannot be sustained. The applicant has indeed admitted the 1993 application for eviction. From the context, it is apparent that the said 1993 eviction application has not been finalised. The first and second respondents have no further onus to discharge on this question.

22. However, Mr Mene's second submission is far more persuasive. In circumstances where nearly three decades have passed since the

institution of the 1993 eviction application. Which was apparently stayed for the Land Claims proceedings to run its course. Where no record of the 1993 application can be found or traced. Where nobody has knowledge of the relevant case number. Where the proceedings in the Land Claims Court and the subsequent appeal to the SCA had run its course and no further steps had been taken in the 1993 application since it was initially stayed and also subsequent to the outcome of the appeal to the SCA, in practical terms, in the circumstances set out above, one must simply regard the 1993 eviction application as having been abandoned. It cannot be pursued in the circumstances which have been placed before this court.

23. Clearly, in the said circumstances the 1993 eviction application cannot, on the facts set out above be revived. The first and second respondents will suffer no prejudice if the 1993 eviction application is regarded as having been abandoned.

24. The arguments of Mr Mongala that the applicant ought to have disclosed the 1993 application especially in the *ex parte* section 4(2) proceedings of the PIE Act are not persuasive, appear to be opportunistic, and certainly show no prejudice to the first and second respondent.

25. On the other hand, as Mr Mene points out if the effect of the untraceable 1993 application acts as a permanent bar to the applicant seeking the eviction of the first and second respondents, the applicant

will suffer great prejudice. Mr Mene further submits it would not be reasonable to expect the applicant to search for the 1993 application indefinitely.

26. In my view Mr Mene's submissions on this aspect are correct. I find as a fact in the circumstances outlined above that the applicant's 1993 eviction application cannot be revived. I find that the correct and pragmatic approach in the circumstances is to regard the applicant's 1993 application as having been abandoned. That as a result of this finding should the relevant court papers ever be traced in the future; such 1993 application can never be revived.

27. This disposes of the first preliminary point. Moving to the next raised by the first and second respondent being the contention that the first and second respondents have acquired the land in question by way of acquisitive prescription.

28. Mr Mongala on behalf of the first and second respondents has submitted that the applicant has not denied that the first and second respondents had been in possession of the land in question prior to the coming into operation of the Natives Land Act of 1913 and had remained on the land subsequently. That in 1976 those in the community that were identified as "Black" were removed from the Gatlhose and Maremane reserves. That that applicant took occupation of the Gatlhose and Maremene Reserves. I take it that Mr Mongala means that the predecessor of the applicant took possession of the

Gatlhose and Maremane Reserves. That the applicant's occupation of the Gatlose and Maremane Reserves in 1978 encircled the first and second respondents until the present time. That prior to the 1943 Prescription Act coming into operation the first and second respondents had occupied the relevant land for more than 30 years.

29. Mr Mongala relied on the contention made by Mr Free, the deponent to the first and second respondents answering affidavit, that the first respondent had been in civil possession of the land for over 100 years.

30. Therefore, Mr Mongala submitted that the first and second respondents could not now be evicted.

31. Mr Mene, on behalf of the applicant, pointed out that the version put forward now by Mr Free is at odds with the version accepted by the Land Claims Court and specifically referred to paragraph 9 of the judgment of Meer AJ in the Land Claims Court. This version was also accepted by the SCA. The relevant paragraph reads as follows:

> "In about early 1978 after the removal of the Gatlhose and Maremane Communities the Government decided to establish a battle school on the former Reserves for training of the Defence Force, and the reserves were allocated for this purpose. The Khosis community was consequently moved from the different parts of the Reserves over which they were scattered and confined to an area of some 14000 hectares. As the Defence Force extended the Battle School, the Khosis area came to be encircled by it and the community found itself increasingly restricted. The army placed constant pressure on the community to vacate the Khosis area and negotiations for their relocation ensued for more than a decade. These culminated in the greater part of the community voluntarily moving to Jenn Haven in 1992, where farms and grazing land were allocated to them. However, a small part of the Khosis community,

led by one Joseph Free, refused to move. Despite increasing pressure to force them out of the Khosis area, they managed to continue in occupation in the middle of the Battle School. The 'Free Group', as they have come to be called, is steadfast in its determination to remain in the Khosis area."[4]

32. Despite Mr Mene specifically referring to this paragraph in argument, quoting it directly in his Heads of Argument filed on behalf of the applicant, Mr Mongala did not deal with it and merely contented himself by standing by his own Heads of Argument.

33. The pertinent issue relied upon by Mr Mene for the applicant is that the Khosis community were gathered up from all over the two reserves and settled on the land now in question in 1978 when the Battle School was established. Mr Mene further contended that when the first respondent lodged its land claim in 1994 as the first respondent sets out in paragraph 4.11 of its answering affidavit, a period of 30 years had not run in respect of the land now in question.

34. In my view, Mr Mene is correct in his submission that the 30-year period had not in fact run. However, the applicant takes it further and Mr Mene points out that the title deed for the relevant property was registered in 1961. He points out that the title deed is annexed to the papers, and it was not seriously placed in dispute. Mr Mene Submitted that in these circumstances it makes no sense to go back to 1913 and before.

[4] Land Claims Court Judgment., above at para [9].

35. Further, Mr Mene referred the court to section 3 of the State Land Disposal Act of 1961[5], and submitted the provisions of that act taken in conjunction with the fact that the relevant piece of land was only occupied by the relevant community from 1978 onwards that acquisitive prescription of the relevant land was not possible in law.

36. Accordingly, having regard to the history of the Khosis community placed before and accepted by the Land Claims Court and the submissions made by Mr Mene on behalf of the applicant, I find that the first respondent could not have acquired the relevant land by way of acquisitive prescription.

37. Although, the finding set out above is sufficient to dispose of the matter, I am also not satisfied that on the case made out by the first and second respondents on the papers filed on their behalf in this matter, that they occupied the relevant land *nec precario* for the periods in which they occupied the two reserves referred to above as well as the piece of land relevant to the present eviction application.

38. Accordingly, I find that the first and second respondents cannot claim to have acquired the land in question by way of acquisitive prescription.

39. The next contention made by the first and second respondents is that the applicant has failed to make out a cause of action. In support of this contention, Mr Mongala on behalf of the first and second

[5] Act 48 of 1961.

respondents submitted that the applicant had not made out a case that dealt with the first and second respondents right of occupation and the termination thereof.

40. Mr Mene counters that the applicant has produced the title deed for the property concerned. Has, in the papers placed before this court, referred to the SCA judgment in the matter and particularly paragraphs [18] and [19] thereof which dealt with the history of the dispute and the decision of the overwhelming majority of the Khosis community to relocate to Jenn Haven where they were allocated alternative land. Special emphasis was placed on the last sentence of that paragraph shows that the 'Free Group' had resisted the State for a period of 17 years prior to 1994. Clearly, Mr Mene submits on the strength of the SCA finding the first and second respondents did not have consent for the continued occupation of the relevant land.

41. Mr Mene continues that it is clear from paragraphs 9.1 and 9.2 of the applicant's founding affidavit herein that the applicant relies on the provisions of the PIE Act.[6]

42. In short Mr Mene argues that applicant has established its right by providing the title deed and establishing applicant's custodianship of the land in question in applicant's founding affidavit and showing on the strength of the SCA judgment that the first and second respondents no longer had consent to occupy the land.

[6] The Prevention of Illegal Eviction from and Unlawful Occupation of Land Act 19 of 1998.

43. I believe Mr Mene is correct that the applicant has established a valid cause of action under PIE. This preliminary point also stands to be rejected.

44. The next preliminary point taken by the first and second respondents is that this court does not have jurisdiction to hear the matter in that the land is rural land and that the application should have been brought under the provisions of ESTA.[7]

45. Central to both the arguments relied upon by both the applicant on the one hand and the first and second respondents on the other is the question of 'consent' required for the application of ESTA.

46. Mr Mongala argues that in 1978 when the first and second respondents were relocated from other parts of the reserve to the land presently occupied by them, the first and second respondents had at least tacit consent to occupy the relevant land if not actual consent. Mr Mongala further argued that tacit consent was enough for ESTA to find application.

47. On the face of it, Mr Mongala's argument seems sound. However, Mr Mene countered that before the ESTA came into operation on the 28 November 1997 and before PIE came into operation on the 5 June 1998, the applicant lodged an eviction application in 1993. Mr Mene's argument is that this 1993 eviction application would have effectively terminated any 'consent' to occupy be it tacit or actual.

[7] The Extension of Security of Tenure Act 62 of 1997.

48. The Constitutional Court in the matter of RESIDENTS OF JOE SLOVO COMMUNITY, WESTERN CAPE v THUBELISHA HOMES & OTHERS (CENTRE FOR HOUSING RIGHTS AND EVICTIONS AND ANOTHER, AMICI CURIA)[8], supports the argument made by Mr Mene. Accordingly, I find that any 'consent' that may have existed prior to the 1993 eviction application was terminated by the said eviction application. In the circumstances, I also find that the ESTA is not applicable to the present case. Thus, this court does have jurisdiction in this matter under the PIE act.

49. The next preliminary point raised by the first and second respondents is that the deponent to the founding affidavit BRIGADIER GENERAL RENIER JOHANNES COETZEE did not have the authority to bring the present application on behalf of the Minister of Defence.

50. The first and second respondents did not challenge the authority of the said deponent in the manner set out in Rule 7 of the Uniform Rules of Court. In my view the deponent and the applicant set out sufficient to show the authority of the deponent to institute the proceedings on behalf of the applicant. Accordingly, I find that there is no substance to this preliminary point raised by the first and second respondents.

51. The next preliminary point is that there was non-compliance with section 4(2) of the PIE Act. The complaint here is that the members of the first respondent are "coloured" people the majority of them are

[8] 2010 (3) SA 454 (CC) at para [84].

Afrikaans speaking and that the relevant notice was not accompanied with an Afrikaans translation.

52. It is not contested that the relevant notice was served by the Sheriff on members of the first respondent who refused to identify themselves. It is clear from the first respondent's own evidence that the first respondent has been functioning as a community for many years. It is clear from Mr Free's opposition to this application that he either received notice of the application himself or received a copy of it from another source. It is also clear from the opposition mounted by Mr Free he clearly understood the statutory notice and reacted accordingly. Mr Free did not put an affidavit before the court that as a result of the statutory notice not being in Afrikaans certain persons were not able to mount a defence. In any event Mr Free purports to act for both the first and second respondents as a community. Clearly the relevant statutory notice performed its intended function. There is no merit or substance in this ground of opposition as well.

53. The final preliminary point is that the wrong Local Municipality was cited. As already set out above the applicant re-opened its case and joined the fourth respondent. After their initial opposition the first and second respondents withdrew their opposition to the applicant reopening its case and joining the fourth respondent to the main application and simultaneously filed a Notice to Abide. As set out above an Order was granted reopening the applicant's case and joining the

fourth respondent. In these circumstances, this preliminary point falls away.

54. In these circumstances the first and second respondents have not put forward a substantive defence to the eviction application itself. The applicant is entitled to an order evicting the first and second respondents. However, that leaves the two concerns initially raised with the parties and set out above. I cannot set a date for the eviction of the first and second respondents without being in a position to establish that there is indeed alternative accommodation available for such of the first or second respondents that cannot provide such accommodation for themselves.

55. Also given the history of the first and second respondents and the finding of the LCC which was confirmed by the SCA those who trace their linage to the original occupiers of the two reserves are entitled to some form of compensation. It is the applicants position that compensation has already been made. If that is correct it would be easy to establish and prove that fact. If the applicant is not correct in its position that compensation has already been made, then provision needs to be made to ensure appropriate compensation is made to those entitled to such compensation.

56. In these circumstances I believe it is appropriate to grant the applicant its eviction order but suspend putting it into operation until the issue of alternative accommodation and the issue of appropriate

compensation for those who are entitled to such compensation have been resolved.

57. It seems to me that the first step in managing both of these issues is for the applicant in co-operation with the first and second respondents to conduct a proper census of those living in the Khosis area. In such census it needs to be established as to: how many households live in the Khosis area; who is the head of each household; details as to whether the respective household is headed by a single parent or a child; the names, age and gender of each member of each respective household (including in respect of the head of each household); whether or not such household is entitled to compensation under the provisions of the LCC ruling; if such household is not entitled to such compensation the reason for reaching that conclusion; and the reasonable requirements for accommodation of each respective household.

58. The conduct of the said census will require the co-operation of the first and second respondents.

59. Once the exercise of conducting a census has been completed, the applicant can establish from the government body responsible for compensating land claimants whether or not the head of each household as revealed from the above census has received such compensation in respect of their individual right to claim such compensation. If such compensation is established, then the applicant

is to file a report setting out in respect of each head of a household identified in the said census: the type of compensation given (ie alternative land or cash compensation); if alternative land was given sufficient particulars to enable the identification of such land as well as the particulars of the person that such land was awarded; if compensation was in the form of cash, then the amount of such cash compensation, the method and date and particulars of the person to whom payment was made.

60. If no compensation was made and the head of the household concerned is entitled to such compensation, the applicant is to make proposals for suitable compensation. If the applicant is not in a position to deliver such compensation, it is to liase with the member of the Cabinet responsible for making such compensation and report to this court what has been done to ensure the compensation that is due.

61. The census and the reports compiled in compliance with the Order to be made herein are to be served on the first and second respondents attorney of record, and if that is not possible the applicant is to seek directions from this court on how to serve such documents.

62. The applicant will report back to this court as directed by this court on the progress it has made in fulfilling the terms of this court Order.

63. The last outstanding issue is the question of costs. It seems to me that the Order contemplated would require the cooperation of the first and second respondents. It seems to me that the manner in which they

cooperate in this process should have a bearing on the final order made in respect of the question of costs. In these circumstances I will reserve the question of costs until the two issues referred to herein are resolved.

In the circumstances, the following order is made:

1) That the first and second respondents together with their family members, if there are any, or anyone using and/or residing on Portion of Lohatla Military Base (Khosis area) and/or any area which they occupy within the Lohatla Military Base, through their relationship and/or association with the first and second respondents together with their belongings, equipment and/or livestock (if any) to vacate the portion of the Lohatla Military Base (Khosis area) and/or any area which they occupy within the Lohatla Military Base on a date to be determined by this court after the orders set out hereunder are complied with.

2) That the Sheriff is hereby authorised and directed to evict the first and second respondents as contemplated in the Order set out in order 1 above.

3) That the operation of the order set out in 1 and 2 above are suspended pending the fulfilment of the orders set out below and a determination of the date for such eviction by this court.

4) That the applicant conducts a census of all the persons making up the first and second respondents.

5) In such census it needs to be established as to: how many households live in the Khosis area; who is the head of each household; details as to whether the respective household is headed by a single parent or a child; the names, age and gender of each member of each respective household (including in respect of the head of each household); whether or not such household is entitled to compensation under the provisions of the LCC ruling; if such household is not entitled to such compensation the reason for reaching that conclusion; and the reasonable requirements for accommodation of each respective household.

6) Once the exercise of conducting a census has been completed, the applicant is to file a report setting out in respect of each head of a household identified in the said census: the type of compensation given (ie alternative land or cash compensation); if alternative land was given sufficient particulars to enable the identification of such land as well as the particulars of the person that such land was awarded; if compensation was in the form of cash, then the amount of such cash compensation, the method and date and particulars of the person to whom payment was made.

7) If no compensation has been made and the heads of the respective households, or some of them are entitled to compensation, the

applicant is to file a report setting out proposals for reasonable compensation.

8) Once the census has been completed the applicant is to liase with the fourth respondent, being the Ga-Segonyane Local Municipality to ascertain the availability of alternative housing for the members of the first and second respondents as evidenced by the abovementioned census. If the Ga-Segonyane Local Municipality is unable to assist for any reason the applicant may liase with any other Local Municipality who might be able to assist.

9) The applicant is to file a report on the availability of suitable alternative housing.

10) The applicant is to serve the census and all reports compiled in compliance with this order on the first and second respondents' attorney of record.

11) If its not possible to serve the said census and/or reports on the said attorney, then directions for service are to be sought from this Court.

12) The applicant and the first and second respondents are to report to this court periodically on dates specified by this court for such reports on the progress made in compliance with the orders set out above.

13) The first report to this court will be on Monday 3rd June 2024 and thereafter as specified by this court.

14) The costs in respect of this application are reserved until the orders set out above are fulfilled or substantially fulfilled.

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Lawrence Lever
Judge
Northern Cape Division, Kimberley

Representation:

For The Applicant:	*Adv BS Mene (SC)*
Instructed by:	*Office of the State Attorney*
For The 1st & 2nd Respondents:	*Adv JK Mongala*
Instructed by:	*BL Motlhamme Inc.*
Date of Hearing:	*19 February 2021*
Date of Judgment:	*05 April 2024*