



IN THE HIGH COURT OF SOUTH AFRICA
GAUTENG DIVISION, PRETORIA

(1) **REPORTABLE: N**

(2) **OF INTEREST TO OTHER JUDGES: [N]**

(3) **REVISED: [N]**

(4) **Signature:**  **Date:** 19/03/26

CASE NO.: 059706/2026

In the matter between:

AFRIFORUM NPC

First Applicant

RENTIA DE HAAS

Second Applicant

GERHARD DU PREEZ

Third Applicant

NTHABISENG MAKGALWA

Fourth Applicant

and

CITY OF TSHWANE METROPOLITAN MUNICIPALITY

First Respondent

THE OCCUPIERS OF PORTION 103 OF THE FARM

PRINSHOF 349 -J.R. AKA ANNIE BOTHA AVENUE,

ARCADIA ("MELGISEDEK")

Second Respondent

MINISTER OF HOME AFFAIRS

Third Respondent

JUDGMENT

Kumalo J

Introduction

- [1] This is an application brought on an urgent basis in terms of Rule 6(12)(a) of the Uniform Rules of Court.
- [2] The Applicant seeks an order interdicting the First Respondent from relocating the Second Respondents to the site known as 531 Nico Smit Street, Gezina (Portion 1 and 2 of ERF 687, Remainder and Portion 1 of ERF 397, Remainder Portion 1 of ERF 387, Remainder and Portion ERF 388, Gezina Township, Registration Division J.R., Gauteng Province.
- [3] Alternatively, the Applicant seeks a rule nisi, calling upon the First Respondent to furnish reasons why the order sought in prayer 1 should not be granted, on a return date to be set by the court.
- [4] It is this court's view that the alternative prayer is moot, as the matter has been fully ventilated and both parties have submitted their respective arguments.
- [5] The genesis of this matter lies in the order of this court issued by Hollard-Mutter J on 6 March 2026, under case number 024885/2026. The Applicants in the current matter were not a party to those proceedings. The First Respondent was the applicant against the Second Respondent in the current matter.

- [6] The First Respondent obtained an order in that matter, which authorized the eviction of the Second Respondent from a property known as portion 103 of Farm Prinshof 349-JR, also known as Melgisedek.
- [7] The Second Respondents were ordered to vacate the property by 20 March 2026. More importantly, the First Respondent was ordered to provide alternative accommodation to the Second Respondents within a radius of 2.5km of the property.
- [8] The First Respondent identified a piece of land that it owns, which is described as 531 Nico Smit Street, Gezina (Portion 1 and 2 of ERF 687, Remainder and Portion 1 of ERF 397, Remainder Portion 1 of ERF 387, Remainder and Portion ERF 388, Gezina Township, Registration Division J.R., Gauteng Province (“the site”).
- [9] The First Respondent opposes the application on various fronts. The urgency of the matter is disputed, and so is the locus standi of the Applicants. The Second to the Fourth Applicants contend that they have direct interest and standing as they reside, own property, or conduct business in the immediate vicinity of the site.
- [10] The First Applicant is a registered Non-Profit and Civil Rights Organization with more than 300,010 members across the Republic of South Africa, of whom 9650 reside in the Moot area, which includes the site in question.

- [11] It is further contended that the application is brought on behalf of the rate payers and residents, as such is in the public interest in terms of section 38(d) of the Constitution, or the First Applicant acts on behalf of a group or class of persons defined as residents and rate payers of the Municipality in terms of section 38(c) of the Constitution whose rights are violated by the Municipality's failure to adhere to the rule of law and protection of all citizens.
- [12] The application is brought on an urgent basis in terms of Rule 6(12) of the Uniform Rules of Court. Rule 6(12)(b) requires the applicant to set forth explicitly the circumstances that it avers render the matter urgent and the reasons why the applicant claims it will not be afforded substantial redress at a hearing in due course.
- [13] The Applicants alleged that the relocation was planned for Wednesday, 18 March 2026. This was apparently the information gathered from the SAPS Station Commander.
- [14] From the above information, the Applicants allege that experience has taught that once informal occupants have been settled, it is extremely difficult to reverse the situation, and allege that it is extremely unlikely that the City will later take steps to reverse the undesirable occupation. This assertion also applies to Gauteng Province. In short, once settled, the occupiers will not leave.

- [15] The Applicants further submitted that the occupation of this piece of land would not be in the interest of the occupants either. The concern is that they are being moved from a building that, although it may have defects, is at least a formal structure with a proper roof, meaning the occupiers' interests are best served by them remaining at Melgsedek.
- [16] This benevolent attitude of the Applicants must be viewed in its proper context. It is common cause that the building in question is a condemned structure, which, according to the City, is a death trap.
- [17] There is also the negative characterization of the habits and activities allegedly displayed by the Occupiers over the past decade or more at Melgisedek.
- [18] The deponent to the Applicant's affidavit alluded to the fact that he is personally aware that the residents have already experienced problems in the immediate area of the site with the selling of drugs, a problem allegedly prevalent in Melgisedek. He concludes that the drug problem will be exacerbated with the proximity of the site to the existing illegal occupants.
- [19] The Applicants further submitted that the Second Respondents' settlement at the site contravenes the zoning by-laws and would set a bad precedent.
- [20] In response to all the above, the First Respondent argues firstly that the Applicant has not made a case for the urgency. The Applicant failed to comply with this Division's directives regarding urgent applications. The Application

was served on Friday, 13 March 2026, and uploaded on Caselines at 4:56 PM, calling upon the Respondents to notify in writing the Applicant's attorneys of their intention to oppose and simultaneously file an opposing affidavit, if any, on Monday, 16 March 2026, at 14h00. The matter was set down for hearing at 10h00 on Tuesday, 17 March 2026.


- [21] The practice directive of this division is that all urgent court matters are to be filed on the Thursday preceding the Tuesday on which they are to be heard.
- [22] The excuse for this drastic curtailment of the time limits is that the Applicants learned of the relocation of the Second Respondents only on 10 March 2026 from SAPS. The First Applicant addressed a letter to the City Manager of the First Respondent requesting information regarding the relocation, how the site was identified, etc., and gave the City Manager an ultimatum to respond by 08h00 on Friday the 13th.
- [23] When no response was forthcoming, they decided to proceed with the urgent application. This court is of the view that, despite the above, the drastic curtailment of the time limits is unjustifiable in the context of this matter.
- [24] The Applicants waited from the 10th to file their papers, only filing them at 4:56 pm on a Friday the 13th, knowing very well that there was a great chance the First Respondent would not notice the application. Even if the application were to come to its notice, there would be further issues regarding representation, etc.

- [25] There is an order from this court authorizing the eviction of the Second Respondents from Melgisedek. The reason for this is that the building occupied by the Second Respondents was condemned in 2014. The City identified the site, which is the subject matter of these proceedings, in its application before Hollard-Mutter J.
- [26] It is correct that the order does not specify that the Second Respondents should be relocated to this site. However, it is clear from the papers served before him that the site was identified for the purpose of relocating the Second Respondents.
- [27] That being the case, it is inconceivable that the Applicants appeared before this court on an extremely urgent basis, knowing that there was a court order authorizing the eviction and removal.
- [28] That order can only be upset on appeal or through a variation or rescission application.
- [29] It is correct that the Applicants were not party to the initial proceedings that authorized the eviction and relocation of the Second Respondents. However, they are not without an adequate remedy in due course. The Applicants can bring an application later regarding the contravention of the Scheme and the By-laws.

[30] With regard to the issue of costs, I am in agreement that the Applicants were reckless in bringing this application in the manner they did and therefore cannot escape being mulched with costs.

[31] In the circumstances, the following order is made:

1. The matter is struck off the roll for lack of urgency
2. The Applicants are to pay the costs of this application on a party and party scale "C", including costs of senior and junior counsel.



MP Kumalo

Judge of the High Court, Pretoria

Delivered: This judgment is handed down electronically by uploading it to the electronic file of this matter on CaseLines.

Appearances:

For the applicants: Adv FJ Erasmus SC

Instructed by: Hurter Spies Inc Attorneys

For the first respondent: Adv JJ Brett SC and Adv S Manganye

Instructed by: Mothle Jooma Sabdia Inc