

REPUBLIC OF SOUTH AFRICA



**IN THE HIGH COURT OF SOUTH AFRICA
MPUMALANGA DIVISION, MBOMBELA (MAIN SEAT)**

(1)	REPORTABLE: NO
(2)	OF INTEREST TO OTHER JUDGES: NO
(3)	REVISED: YES
	02/04/2024
.....
SIGNATURE	DATE

CASE NO: 3784/2022

In the matter between:

EDWIN CONSTRUCTION (PTY) LTD

APPLICANT

and

**MKHULU MASANGO NKANDLA
XOLANI MTSWENI NKANDLA
BONGINKOSI MPOFU
SAKHILE SIBANYONI
DUIKER NKOSI
KLAAS MDLULI
MANDLA NKOSI
MEMBERS & SUPPORTS OF THE
FIRST TO SEVENTH RESPONDENTS
MPUMALANGA PROVINCIAL GOVERNMENT
DEPARTMENT OF PUBLIC WORKS,
ROADS & TRANSPORT
THE STATION COMMANDER OF THE SOUTH
AFRICAN POLICE SERVICES, MASHISHING
THE STATION COMMANDER OF THE SOUTH
AFRICAN POLICE SERVICES, LYDENBURG**

**1ST RESPONDENT
2ND RESPONDENT
3RD RESPONDENT
4TH RESPONDENT
5TH RESPONDENT
6TH RESPONDENT
7TH RESPONDENT

8TH RESPONDENT

9TH RESPONDENT

10TH RESPONDENT

11TH RESPONDENT**

JUDGMENT

GUMEDE AJ

1. The matter concerns an application to interdict first to eight respondents from interfering and/or disrupting construction work of the applicant's project.
2. Applicant alleges that between the period of 30 June 2022 to 5 September 2022, the respondents unlawfully disrupted the construction work of the applicant by locking the gate to the site office of the applicant, threatening, and intimidating the employees of the applicant. As a result, the applicant fears for the safety of its employees and fears for the damage or destruction of its equipment and infrastructure. According to the applicant, the respondents' demands were related to the rates payable to local laborers, the hiring of local plants and machinery for construction work and the number of people hired from the local community.
3. On 13 September 2022, a rule nisi was granted, calling upon the respondents to show cause why the respondents should not be interdicted.
4. The respondents deny any unlawful action on their part and allege that the instigators of the alleged activities are the unidentified employees of the applicant who were involved in an unprotected strike. The respondents allege that as part of the community, they assisted the applicant by acting as peacemakers and mediators during the strike and held a meeting with the applicant and its employees, resulting in a settlement of the protest action.

5. It is a trite principle that the case for the applicants must be made in its founding papers. The main difficulty with the applicant's case is that it does not provide evidence of the identity of the perpetrators. Without evidence, linking the disruptions to the first to eight respondents, this court cannot issue an interdict.
6. To persuade this court to accept that it was indeed the respondents who were the said perpetrators, the applicant attached some random photographs to the replying affidavit, alleging that the said photographs were taken at the site of the applicant's site during protests.
7. These photographs do not assist the applicant as they simply depict unknown people. They do not display any kind of chaos or violence as alleged. This court has no way of knowing the identity of the individuals in these photographs. Even if the respondents were to admit that they are indeed in the photographs, their version is that they are part of the community and assisted the applicant to broker a settlement with its employees who were engaged in an unprotected strike.
8. For the above reasons, I am not satisfied that the applicant has made out a case against the specified first to eight respondents.
9. In the result, I make the following order:
 1. the rule nisi that was granted on 13 September 2022, is hereby discharged.
 2. The application is dismissed with costs.



Z GUMEDE

Acting Judge of the High Court

This judgment was handed down electronically by circulation to the parties and/or parties' representatives by email. The date and time for hand-down is deemed to be 2 April 2024

APPEARANCES

For the Applicant : H FOUIRE

Instructed by : Hatting & Ndzabandzaba Attorneys

For the Respondents: No appearance

Date of hearing : 31 August 2023

Date of judgment : 2 April 2024