

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

CASE NO: 1448/21

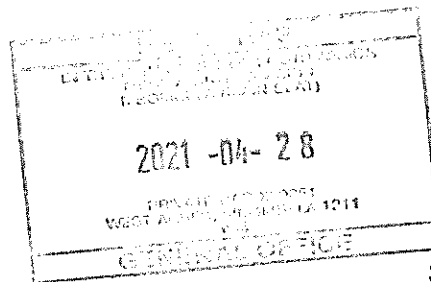
In the matter between:

THE SOUTH AFRICAN HUMAN RIGHTS COMMISSION

Applicant

and

AGRO DATA CC



First Respondent

BOSHOFF, FG

Second Respondent

NOTICE IN TERMS OF RULE 16A

TAKE NOTICE THAT that the following constitutional issues are raised in this application:

1. The South African Human Rights Commission ("**the Commission**") received a complaint made on behalf of various occupiers of Portion 3 of the farm Doornhoek, 143 JT, Thaba Chweu ("**the farm**"). The substance of the complaint relates to a new farm owner unilaterally terminating the long-standing right of the occupiers to access water from the farm's borehole.

2. Following an investigation of the complaint, the Commission delivered its investigative report to the parties which included several directives. The directives required that the farm owner (the Respondents) restore the occupiers' access to the borehole water and commence a process of engagement with the occupiers on the equitable management of water resources on the farm. Should the parties not be able to reach an amicable resolution, the Commission directed the parties to approach the courts for relief.
3. To date, the respondents have refused and / or failed to comply with the Commission's directives.
4. The Commission has brought the application in an effort to vindicate the occupiers' constitutional rights not to be denied or deprived of access to water and to dignity, in violation of section 6(2)(e) of the Extension of Security of Tenure Act 62 of 1997 read with sections 10 and 27(1)(b) of the Constitution.
5. The Applicant prays that:
 - a. It is declared that the Commission's directives issued in terms of section 184 (2) (b) of the Constitution are binding.
 - b. The Court declare the Respondents' failure to comply with the Commission's directives to be unlawful.
 - c. The Court make the Commission's directives an order of Court.
6. Further to the infringement of the occupiers' rights, the application raises the scope of the Commission's powers to issue binding directives in the exercise of

its protective mandate and its power to “take steps to secure appropriate redress where human rights have been violated” under section 184(2)(b) of the Constitution. The Applicant contends that the Respondents are not entitled merely to ignore the Commission’s directives without legal consequence.

TAKE NOTICE FURTHER that any interested party may, with the written consent of all parties to the proceedings and within 20 days of this notice being filed with the Registrar of the above Court, be admitted as amicus curiae upon such terms and conditions as may be agreed upon in writing by the parties.

TAKE NOTICE FURTHER that the written consent referred to above shall, within five days of its having been obtained, be lodged with the Registrar of the above Court. The amicus curiae shall, in addition to any other provision, comply with the time frames agreed upon for the lodging of the written argument.

TAKE NOTICE FURTHER that the terms and conditions agreed upon may be amended by the above Court.

TAKE NOTICE FURTHER that if the interested party is unable to obtain the written consent as contemplated above, he or she may, within five days of the expiry of the 20-day period mentioned above, apply to this Court to be admitted as an amicus curiae in these proceedings.

KINDLY PLACE A COPY OF THIS NOTICE ON THE NOTICE BOARD.

DATED AT MOMBASA ON THIS 28th DAY OF APRIL 2021.



**THE SOUTH AFRICAN HUMAN RIGHTS
COMMISSION**

APPLICANT'S ATTORNEYS
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34 BROWN STREET
MBOMBELA

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CELL: 078 670 4360

TO: THE REGISTRAR
OF THE ABOVE HONOURABLE COURT
MBOMBELA

AND TO: AGRO DATA
1ST RESPONDENT
112 MONUMENT ROAD
NIMROD PARK
KEMPTON PARK
1619

29/04/2021 15:49
MARAIS ATTORNEYS
6 Air Street
Malelane
1320
Tel: 013 700 1177/8

AND TO: BOSHOFF, FG
2ND RESPONDENT
798 WITKRUISAREND STREET
MALELANE
1320

29/04/2021 15:49
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