

CASE NO: 5609/2021

IN THE HIGH COURT OF SOUTH AFRICA
[WESTERN CAPE DIVISION, CAPE TOWN]

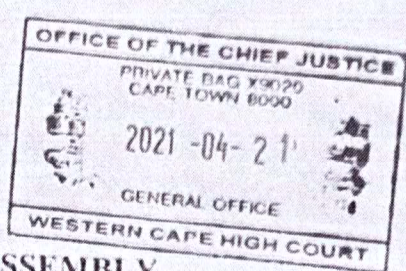
U.M.

Case no ~~...../2021-2020~~

in the matter between

MATOME CHIDI

APPLICANT



AND

**SPEAKER OF THE NATIONAL ASSEMBLY
OF PARLIAMENT**

1ST RESPONDENT

**MINISTER OF AGRICULTURE, LAND
REFORM AND RURAL DEVELOPMENT**

2ND RESPONDENT

TRANSNET SOC LIMITED

3RD RESPONDENT

POLOKWANE MUNICIPALITY

4TH RESPONDENT

**THE PRESIDENT OF THE
REPUBLIC OF SOUTH AFRICA**

5TH RESPONDENT

MINISTER OF PUBLIC WORKS

6TH RESPONDENT

NOTICE IN TERMS OF RULE 16 A

NOTICE PUBLISHED BY EM MAKWELA-
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PLEASE TAKE NOTICE THAT the applicant, in the application proceedings under the above case number, raises issues such:

1. constitutional and related issues- the sections and rights which are directly affected herein are:
 - 1.1. that the *1st respondent* should take reasonable legislative measures as required by section 25 (5), and
 - 1.2. take such measures in the preceding prayer diligently and without delay in terms of section 237, read together with clause 21 of schedule 6, both of the Constitution;
 - 1.3. further, that the *2nd respondent* should take reasonable “other” measures in terms of section 25 (5) of the Constitution,
 - 1.4. that the *1st and 2nd respondents* have not fostered conditions for access to land diligently and without delay, failing the Constitution, considering that it is more than 25 years since democracy;

- 1.5. that the nation's commitment in section 25 (4) is binding on all persons in South Africa, including the 1st and 2nd respondents;
- 1.6. that section 1 of the Constitution, which provides for a society based on:
 - a. the achievement of equality, which grounds Botho/Ubuntu and which principle's pillars are sharing, amongst others and:
 - i. that sharing manifests in the communal manner of land use system,
 - ii. that the sharing principle, being African, has been relegated to no space and the European exclusionary principle was placed at the legal centre, for the exclusion of Africans and that time is now for the Universal principle, rooted in Africa, of sharing inform reforms as to access to land;
 - b. human dignity, which was meant for all to enjoy their right to dignity, hence the African system of sharing which system permitted all to have access to land;
 - c. the achievement of freedom~~S~~, amongst other freedoms is the economic freedom and that land may contribute to freeing the applicant and others' potential- freedom from the rental-slavery.
- 1.7. that land reform and reforms related to land, provided for in section 25, are grounded in sections 1 and 9 of the Constitution.

- 1.8. that the loyalty to the Constitution and the people, in terms of section 41 of the Constitution, when read together with sub-sections (4) and (5) of section 25, enjoins the *2nd respondent* to cause land to be accessed by citizens, including Africans, on an equitable basis;
 - 1.9. the applicant's and others' right to development, a UN guaranteed right, through section 232 of the Constitution, considered in the context of-
 - a. the duty to improve the quality of life of citizens and free potential of each, as per the Preamble; and
 - b. the 1st and 2nd respondents' section 195 duties,enjoins the 1st and 2nd respondents to foster conditions for access to land.
 - 1.10. that the 1st respondent be directed to take legislative measures to foster conditions to facilitate access to land.
2. some of the salient points raised are:
- 2.1. that land in Africa belongs to Africans, in the same way as land in Europe belongs to Europeans;

- 2.2. that it is only the law from outside Africa which, with a measure of absurdity, may lead to a position that land in Africa does not belong to Africans, alternatively that Africans should continue to struggle for access to land;
- 2.3. In the matter of “*Dubula amabhunu*”, of *Malema (Afri-Forum and Another v Malema and Others* (20968/2010) [2011] ZAEQC 2; 2011 (6) SA 240 (EqC); [2011] 4 All SA 293 (EqC); 2011 (12) BCLR 1289 (EqC) (12 September 2011) - paragraphs 2-5):¹
- a. Judge Lamont contributes to the body of language on how land from Africans was taken from Africans; and
 - b. his judgment further shows why it appears difficult to assert Africans as Africans and how easy it is to address the persons who descended from Europe as Afrikaners.
- 2.4. Africans have the right to land, only that the State should foster conditions for access;
- 2.5. the right to land should be enjoyed by Africans, who include Coloured persons, and that section 25 (8) may be applied to limit, amongst others, the right to be

¹ *Afri-Forum and Another v Malema and Others* (20968/2010) [2011] ZAEQC 2; 2011 (6) SA 240 (EqC); [2011] 4 All SA 293 (EqC); 2011 (12) BCLR 1289 (EqC) (12 September 2011) - paragraphs 2-5

paid compensation if expropriation is applied. The latter is raised in passing and contextually and not an issue before the Court for determination;

2.6. that section 25 (1) and (2) considered, for unused land and any similar land, the taking of unused land and such related land needs no payment of compensation;

2.7. that the 1st and 2nd respondents be directed to take legislative and other measures to foster conditions to facilitate access to land.

DATED AT POLOKWANE ON THIS  DAY OF MARCH 2021.


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TO : The Registrar of the
above Honourable Court

AND TO : 1ST Respondent
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Tel: 021 403 2595/2600
Email: info@parliament.gov.za, and
➤ Email: speaker@parliament.gov.za

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AND TO :

2ND RESPONDENT

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Gauteng Province.
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➤ debbie.khan@drdlr.gov.za

AND TO :

3RD RESPONDENT

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AND TO :

4th RESPONDENT

Civic Centre
Corner Landros Mare and Bodenstein Street
Polokwane
Limpopo Province

"PER SHERIFF"

C/O Municipal Manager

Or Person in Municipal Manager's Office
Tel: 015 290 2102

Legal Services

Tel: 015 290 2141/2

Email: reubenm@polokwane.gov.za

AND TO :

5th RESPONDENT

Union Buildings

"PER SHERIFF"