

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

Appeal Case No: A20/2022

In the appeal between:

SINKY THOMAS MNISI

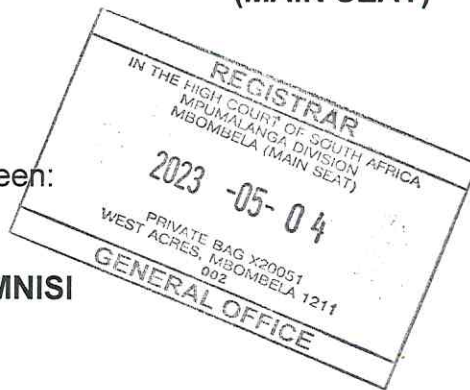
and

HOTAZEL DEVELOPMENTS (PTY) LTD

and

HARRIET MNISI

and



Appellant

First Respondent

Intervening Party

Appeal Case No.: A19/2022

In the appeal between

FLORENCE MDAKA

First Applicant

PETRIQUE ADAMO

Second Applicant

PHUMZILE MDHLOVU

Third Applicant

VANIA MANZINI

Fourth Applicant

LINDIWE NTIMBA

Fifth Appellant

SIFISO MOREO

Sixth Appellant

ROSE MKONDO

Seventh Appellant

JABULANI MICHAEL MASUKU

Eighth Appellant

ZANELE MAHLELELA

Ninth Appellant

NOMSA MHLONGO

Tenth Appellant

PRECIOUS NDLOVU	Eleventh Appellant
MASTER KHUMALO	Twelfth Appellant
RODGERS MANDLANI	Thirteenth Appellant
CHRISTINA DLAMINI	Fourteenth Appellant
BATISTA NGOBENI	Fifteenth Appellant
BASIL MATHE	Sixteenth Appellant
NOMSA NKANA	Seventeenth Appellant
MANUEL FELIX	Eighteenth Appellant
SARAH MABASE	Nineteenth Appellant
MTUNZI PATRICK HLUNGWANE	Twentieth Appellant
JETHRO MASANGO	Twenty-First Appellant
JACINTO MBATINE	Twenty-Second Appellant
RODRIGUES GASTAO	Twenty-Third Appellant
HLOLA MARGARET MHLANGA	Twenty-Fourth Appellant
SALMON NGOBENI	Twenty-Fifth Appellant
PETUNIA MKHARI	Twenty-Sixth Appellant
MDUDUZI NDLOVO	Twenty-Seventh Appellant
and	
HOTAZEL DEVELOPMENTS (PTY) LTD	First Respondent

RULE 16A NOTICE

BE PLEASED TO TAKE NOTICE that the Appellants intend to bring an application which raises the following constitutional issues:

1. The Rules Board acted ultra vires in adopting Rule 49(13) in that it created the obligation to furnish security for costs in terms of Rule 49(13) when it was not empowered to do so.
2. Rule 49(13) of the Uniform Rules of Court infringes the rights set out in section 34 of the Constitution of the Republic of South Africa, 1996 in that the obligation to furnish security of costs is an impediment to indigent litigants accessing courts.
3. The requirement under Rule 49(13) to apply for an exemption for security for costs in appeals further limits the rights of indigent appellants in terms of section 34 of the Constitution of the Republic of South Africa, 1996 in that the onus is on indigent litigants to justify the need for exemption.

TAKE NOTICE FURTHER that any interested party may, with the written consent of all the parties to the proceedings, given not later than 20 days after this notice has been filed, be admitted therein 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 (5) days of its having been obtained, be lodged with the Registrar and the *amicus curiae* shall, in addition to any other provision of the Rules, comply with the times agreed upon for the lodging of the written argument.

TAKE NOTICE FURTHER that if the interested party is unable to obtain written consent they may, within five days of the expiry of the 20-day period prescribed above, apply to the Court in the manner contemplated by Rule 16A(6) to be admitted as an *amicus curiae* in the proceedings.

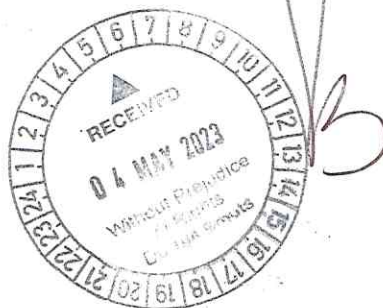
Signed at Nelspruit on this the 4 day of May 2023


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**AND TO: THE REGISTRAR OF THE MPUMALANGA HIGH COURT,
MBOMBELA**

**AND TO: HOTAZEL DEVELOPMENTS (PTY) LTD
RESPONDENT**
Du Toit Smuts Attorneys
Law Chambers
Van Niekerk Street
Nelspruit
Tel: 013 745 3200
Ref: SA Cilliers/em/H1/17



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