

O/C

**IN THE HIGH COURT OF SOUTH AFRICA**

OFFICE OF THE CLERK OF THE COURT  
 PRIVATE BAG X9020  
 CAPE TOWN  
**WESTERN CAPE DIVISION, CAPE TOWN**

2021 -03- 04

GENERAL OFFICE  
 WESTERN CAPE HIGH COURT

CASE NUMBER: 3997/21

In the matter between: -

**THE VOICE COMMUNITY REPRESENTATIVE COUNCIL NPO** Applicant

and

**CENTRE FOR ENVIRONMENTAL RIGHTS (PTY) LTD NPC** First Respondent

**EARTHLIFE AFRICA JOHANNESBURG** Second Respondent

**BIRDLIFE SOUTH AFRICA** Third Respondent

**MINING AND ENVIRONMENTAL JUSTICE COMMUNITY NETWORK OF SOUTH AFRICA** Fourth Respondent

**ENDANGERED WILDLIFE TRUST** Fifth Respondent

**FEDERATION FOR A SUSTAINABLE ENVIRONMENT** Sixth Respondent

**GROUNDWORK** Seventh Respondent

**ASSOCIATION FOR WATER AND RURAL DEVELOPMENT** Eight Respondent

**BENCH MARKS FOUNDATION** Ninth Respondent

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**NOTICE OF MOTION**

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**BE PLEASED TO TAKE NOTICE** that the applicant intends to make application to

the above Honourable Court on Thursday, the 11<sup>th</sup> day of March 2021 at 10:00 or so soon thereafter as counsel for the applicant may be heard, for an order in the following terms:-

1. That the applicant's non-compliance with the Uniform Rules of Court, dispensing with the forms and service, is condoned and that the matter is heard as urgent in terms of rule 6(12);
2. That the respondent is forthwith interdicted and directed:-
  - 2.1. to remove from its website the article titled "*Coalition condemns MEC's decision to revoke protected area to allow new coal mine*" published on 11 February 2021 at 14:00; and
  - 2.2. to remove from its website the article titled "*Statement on environmental MEC's decision to exclude properties from the Mabola Protected Environment to enable a new coal mine*" published on 15 February 2021 at 15:33;
3. Costs of this application, only in the event of opposition;
4. Further and/or alternative relief.

**TAKE NOTICE FURTHER** that the founding affidavit of THABISO MOSES NCALA (THABISO NENE), together with annexures thereto, will be used in support of the application.

**TAKE NOTICE FURTHER** that the applicant has appointed Ayoob Kaka Attorneys at the address set out hereunder, at which the applicant will accept notice and service of all processes in these proceedings.

**TAKE NOTICE FURTHER** that if you intend opposing the application, you are required: -

- (a) to notify the applicant's attorneys in writing by Friday, 5 March 2021;
- (b) to file your answering affidavit, if any, by Monday, 8 March 2021;
- (c) to appoint in such notification an address for service as contemplated by rule 6(5)(b) of the Uniform Rules of Court;
- (d) for the sake of convenience and due to the urgency of the matter, the applicant hereby accepts service by way of e-mail correspondence which is to be sent to [ebrahim@kakalaw.co.za](mailto:ebrahim@kakalaw.co.za).

**THE MATTER IS TO BE HEARD AS URGENT:**

1. On 16 February 2021 the applicant took notice of the two articles which were published on the respondent's website which contain materially false information.
2. The articles, authored by environmental conservationists, are aimed at creating public outrage with the purpose of putting pressure on government

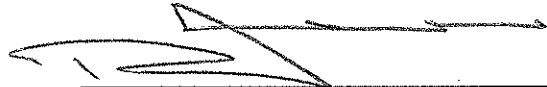
to disallow the opening of a coal mine in the Wakkerstroom area in Mpumalanga.

3. Should the articles not be removed the apprehension of harm is real in that the opening of the mine could be revoked or delayed which would deprive the community of economic development; job creation; infrastructure; skills development and training and business opportunities which are so desperately needed.
4. The mine is set to open on or about 24 March 2021.
5. The community is poverty stricken and their situation has been exasperated due to the COVID -19 pandemic. A further delay in the opening of the mine cannot be absorbed.
6. Immediately upon becoming aware of the articles and on 16 February 2021 the applicant addressed an urgent letter to the respondent demanding the removal within 7 days.
7. The respondent refused in writing on 22 February 2021.
8. The applicant then obtained funds, engaged its legal representatives and counsel on 1 March 2021.
9. The application was drafted on 2 and 3 March 2021.

10. The deponent had to travel 400 kilometres on 3 March 2021 to finalise and sign the affidavit.
11. The respondent has been given as much time as possible to file answering papers.

**KINDLY ENROL THE MATTER FOR HEARING ACCORDINGLY.**

DATED at CAPE TOWN on the 4<sup>th</sup> day of MARCH 2021



**~~AYOOB KAKA ATTORNEYS~~**  
APPLICANT'S ATTORNEYS  
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JOHANNESBURG  
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**C/O BUTLER BLANCKENBERG**  
**NIELSON SAFODIEN INC**  
TANNERY PARK  
2<sup>nd</sup> FLOOR  
21 BELMONS, RONDEBOSCH  
E-MAIL: [werner@bbinc.co.za](mailto:werner@bbinc.co.za)  
REF: WERNER

TO: THE REGISTRAR OF THE ABOVE HONOURABLE COURT  
CAPE TOWN

AND TO:

**CENTRE FOR ENVIRONMENTAL RIGHTS (PTY) LTD NPC**  
RESPONDENT  
SECOND FLOOR  
SPRINGTIME STUDIOS  
1 SCOTT ROAD  
OBSERVATORY  
CAPE TOWN

Email: [nmia@cer.org.za](mailto:nmia@cer.org.za); [chorsfield@cer.org.za](mailto:chorsfield@cer.org.za)

**SERVICE BY HAND**  
**SERVICE VIA EMAIL**

AND TO:

**EARTHLIFE AFRICA JOHANNESBURG**

Second Respondent

**C/O CENTRE FOR ENVIRONMENTAL RIGHTS (PTY) LTD NPC**

Email: [nmia@cer.org.za](mailto:nmia@cer.org.za); [chorsfield@cer.org.za](mailto:chorsfield@cer.org.za)

**SERVICE VIA EMAIL**

AND TO:

**BIRDLIFE SOUTH AFRICA**

Third Respondent

**C/O CENTRE FOR ENVIRONMENTAL RIGHTS (PTY) LTD NPC**

Email: [nmia@cer.org.za](mailto:nmia@cer.org.za); [chorsfield@cer.org.za](mailto:chorsfield@cer.org.za)

**SERVICE VIA EMAIL**

AND TO:

**MINING AND ENVIRONMENTAL JUSTICE COMMUNITY NETWORK OF SOUTH AFRICA**

Fourth Respondent

**C/O CENTRE FOR ENVIRONMENTAL RIGHTS (PTY) LTD NPC**

Email: [nmia@cer.org.za](mailto:nmia@cer.org.za); [chorsfield@cer.org.za](mailto:chorsfield@cer.org.za)

**SERVICE VIA EMAIL**

AND TO:

**ENDANGERED WILDLIFE TRUST**

Fifth Respondent

**C/O CENTRE FOR ENVIRONMENTAL RIGHTS (PTY) LTD NPC**

Email: [nmia@cer.org.za](mailto:nmia@cer.org.za); [chorsfield@cer.org.za](mailto:chorsfield@cer.org.za)

**SERVICE VIA EMAIL**

AND TO:

**FEDERATION FOR A SUSTAINABLE ENVIRONMENT**

Sixth Respondent

**C/O CENTRE FOR ENVIRONMENTAL RIGHTS (PTY) LTD NPC**

Email: [nmia@cer.org.za](mailto:nmia@cer.org.za); [chorsfield@cer.org.za](mailto:chorsfield@cer.org.za)

**SERVICE VIA EMAIL**

AND TO:

**GROUNDWORK**

Seventh Respondent

**C/O CENTRE FOR ENVIRONMENTAL RIGHTS (PTY) LTD NPC**

Email: [nmia@cer.org.za](mailto:nmia@cer.org.za); [chorsfield@cer.org.za](mailto:chorsfield@cer.org.za)

**SERVICE VIA EMAIL**

AND TO:

**ASSOCIATION FOR WATER AND RURAL DEVELOPMENT**

Eight Respondent

**C/O CENTRE FOR ENVIRONMENTAL RIGHTS (PTY) LTD NPC**

Email: [nmia@cer.org.za](mailto:nmia@cer.org.za); [chorsfield@cer.org.za](mailto:chorsfield@cer.org.za)

**SERVICE VIA EMAIL**

AND TO:

**BENCH MARKS FOUNDATION**

Ninth Respondent

**C/O CENTRE FOR ENVIRONMENTAL RIGHTS (PTY) LTD NPC**

Email: [nmia@cer.org.za](mailto:nmia@cer.org.za); [chorsfield@cer.org.za](mailto:chorsfield@cer.org.za)

**SERVICE VIA EMAIL**