

**IN THE MAGISTRATE'S COURT FOR THE DISTRICT OF
BUSHBUCKRIDGE HELD AT BUSHBUCKRIDGE**

CASE NO: 648/16

In the matter between:

MOREIPUSO TRADITIONAL COUNCIL

APPLICANT

And

SPEAKER MAHLAKE

RESPONDENT(S)

AND/OR ANY OTHER PERSON(S) ACTING UPON

HIS INSTRUCTIONS

COURT ORDER

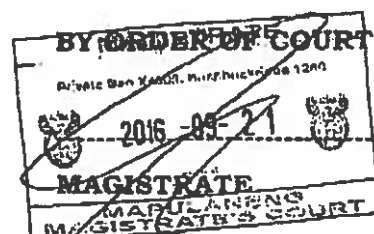
HAVING heard the Applicant's legal representative, **MR IB CHILOANE**, and having read the documents filed on record:

IT IS HEREBY ORDERED THAT:

1. That the Respondent(s) is/are restrained and interdicted from proceeding and holding a Heritage day Celebration Meeting scheduled to take place on the 24th of September 2016 from 08:00 at Wales (SANTENG/DEEPING);

2. That the Respondent(s) is/are restrained and interdicted from coming anywhere near the area and on the date mentioned in 1, above without the permission of Applicant;
3. That the Sheriff of the above Honourable Court, with the assistance of the South African Police Service (SAPS) Acornhoek Station are authorized to do or cause to be done anything that may be necessary to prevent the Respondent(s) in the event that he/they fail to comply with the orders mentioned in 1 and 2, above;
4. That the orders in 2 and 3 above operate as interim orders and that the Respondent(s) is/are called upon to appear before this Honourable Court on the 18 day of October 2016 at 09:00 to show cause, if any, as to why the orders granted in terms hereof should not be made a final order;
5. That any Respondent(s) who oppose this application is/are ordered to pay the costs hereof.

THUS DONE AND SIGNED AT Bushbuckridge ON THIS THE 21
DAY OF September 2016



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RESPONDENT(S)

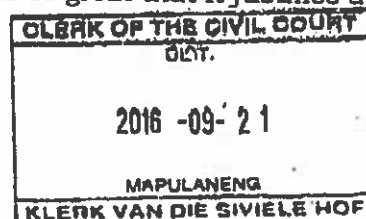
AND/OR ANY OTHER PERSON(S) ACTING UPON

HIS INSTRUCTIONS

NOTICE OF EX-PARTE APPLICATION

KINDLY TAKE NOTICE THAT Application will be made on behalf of the above named Applicant on the *21st* day of **SEPTEMBER 2016** at **09:00** or so soon thereafter as the matter may be heard for an order in the following terms:

1. That this application be treated as an urgent application as contemplated in **RULE 63(3) (a)** in that the degree of urgency is so great that it justifies dispensing with notice before rule nisi is granted;



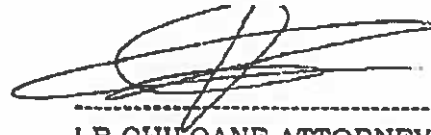
2. That the Respondent(s) be restrained and interdicted from proceeding and holding a Heritage day Celebration Meeting scheduled to take place on the **24th of September 2016** from **08:00** at **Wales (SANTENG/DEEPING)**;
3. That the Respondent(s) be restrained and interdicted from coming anywhere near the area and on the date mentioned in 2, above without the permission of Applicant;
4. That the Sheriff of the above Honourable Court, with the assistance of the South African Police Service (SAPS) Acornhoek Station be authorized to do or cause to be done anything that may be necessary to prevent the Respondent(s) in the event that he/they fail to comply with the orders mentioned in 2 and 3, above;
5. That the orders in 2 and 3 above operate as interim orders and that the Respondent(s) be called upon to appear before this Honourable Court on the *18th* day of *OCTOBER* 2016 at 09:00 to show cause, if any, as to why the orders granted in terms hereof should not be made a final order;
6. That any Respondent(s) who oppose this application be ordered to pay the costs hereof.

AND THAT the affidavit of **RODGERS MALAPANE** together with annexures thereto will be used in support of this application

TAKE NOTICE FURTHER that the Applicant has appointed the address of its attorneys set forth hereunder as the address referred to in **Rule 55(1)(e))** at which address Applicant will accept notice and service of all process in these proceedings.

DATED AT HAZYVIEW ON THIS THE 21ST DAY OF SEPTEMBER 2016



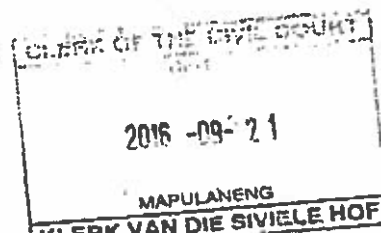


I.B CHILOANE ATTORNEYS
ATTORNEYS FOR THE APPLICANT
C/O TK MACHITELE ATTORNEYS
OFFICE 5, 1ST FLOOR
THOKOZANI CENTRE
141 MAIN ROAD
P.O.BOX 1356
BUSHBUCKRIDGE
1280
TEL: (013) 007 1119
CELL: 071 631 3858
FAX: 086 608 9715
REF. IBC/175/CIV-BBR
EMAIL: ib.chiloane@gmail.com

TO: THE CLERK OF THE ABOVE HONOURABLE COURT

**AND TO: SPEAKER MAHLAKE
MAKATA HIGH SCHOOL
PHELINDABA**

SERVICE BY SHERIFF



**IN THE MAGISTRATE'S COURT FOR THE DISTRICT OF
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CASE NO:

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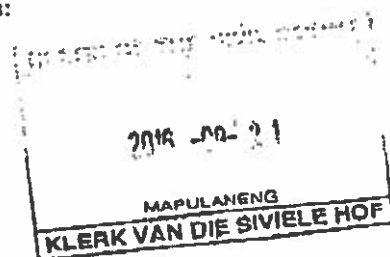
HIS INSTRUCTIONS

FOUNDING AFFIDAVIT

I, the undersigned,

RODGERS MALAPANE

Do hereby make oath and state as follows:



1.

I am an adult male member of the executive committee of the Applicant residing at **stand number 103, Casteel, Bushbuckridge, Mpumalanga Province.**

2.

The facts contained in this affidavit are true and correct to the best of my belief and fall within my personal knowledge, unless the contrary is indicated or appears from the context.

3.

I am authorised to bring this application and to depose to this affidavit on behalf of the Applicant. I attach hereto a copy of the resolution by the Applicant marked as **annexure "MTC1"**.

4.

Whenever I refer to any legal issues in this affidavit, I do so on the advice of my legal representative, whose advice I accept as being correct.



5.

THE PARTIES

- 5.1 The Applicant is **MOREIPUSO TRADITIONAL COUNCIL**, a traditional council as contemplated in section 1 of the **Traditional Leadership and Governance Framework Act 41 of 2003**.
- 5.2 The Respondent(s) is **SPEAKER MAHLAKE**, an adult male Educator employed by the Mpumalanga Department of Education and stationed at Makata High School, Phelindaba, Casteel, Mpumalanga Province.

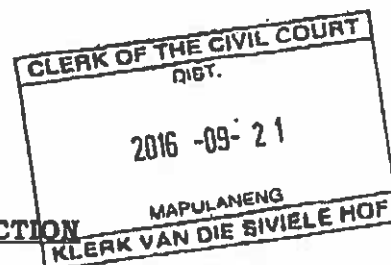
6.

PURPOSE OF APPLICATION

The purpose of this application is to seek an order restraining and interdicting the Respondent(s) from arranging and holding a Heritage day Celebration Meeting at Wales (Santeng / Deeping) on the **24th day of September 2016** from **08:00** which meeting has been arranged and will be held without the permission of Applicant.

8.

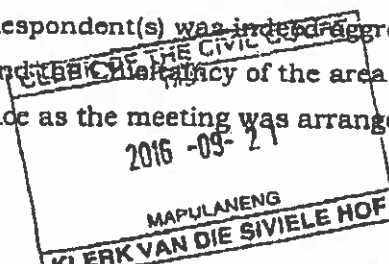
JURISDICTION



The above Honourable Court has the necessary jurisdiction to entertain this matter due to the fact that the parties are domiciled within its jurisdictional area and further that the property where the meeting is scheduled to be held is situated within the court's area of jurisdiction.

BACKGROUND FACTS

- 9.1 The Applicant is a traditional council having control and jurisdiction over Wales (Santeng/ Deeping) which area or property is the subject matter of this application.
- 9.2 On or about the **14th of September 2016**, it came to the attention of the Applicant that the youth of Wales were organising and mobilising themselves for attack against people who they say will be invading their village on the **24th of September 2016**.
- 9.3 These youth indicated to members of Applicant that they view the said meeting by another royal council from outside their village as a hostile takeover of their village and aggression by those who have organised the said meeting in their village.
- 9.4 The said youth further stated that they are mobilising all the villagers against the aggression by the so called **BAKONI ROYAL COUNCIL** and the Respondent(s) and further that they are ready to protect the village with their lives. They further vowed that there will be bloodshed if the said meeting is not prevented from taking place on the date in question.
- 9.5 I would like to place it on record that after the said report by the youth a number of people were dispatched by Applicant to go and investigate the allegations of the said meeting and it was confirmed that the Respondent(s) has distributed invitations of the said meeting. I attach hereto a copy of a notice of the meeting marked as **annexure MTC2**.
- 9.6 I submit that the Applicant had immediately called a meeting and in that meeting it was acknowledged that Respondent(s) was indeed aggressive and declaring war on the villagers and the Chiefdom of the area where the meeting is scheduled to take place as the meeting was arranged



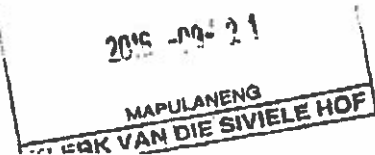
without the consent, knowledge, approval and/or permission of the Applicant.

- 9.7 The Applicant had in an attempt to find a peaceful resolution to this matter contacted the Respondent(s) to have a meeting with him on the **16th of September 2016** but the Respondent(s) has refused to attend such a meeting. I attach hereto a copy of the invitation of the Respondent to the meeting marked as **annexure MTC 3**
- 9.8 The Applicant has further on the **14th of September 2016** approached the station commander of the SAPS based in Acornhoek to warn the Respondent(s) not to proceed with the meeting but the station commissioner indicated that he cannot do such if there is no court order authorising him to do same.
- 9.9 The Applicant has then resolved that to avoid bloodshed and hostility between the villagers and innocent people who will be attending the meeting, and application must be made to the above Honourable Court to prevent the said meeting from taking place as Applicant will not be in a position to control the villagers anger and violence should the meeting be allowed to proceed as arranged.

10.

CLEAR RIGHT

The area in question where the Heritage meeting is scheduled to take place is an area under the jurisdiction and control of the Applicant. I respectfully submit that Applicant have a clear right in respect of the area in question. By operation of the law the Respondent(s) cannot host a meeting of another royal



council (**Bakone Royal Council**) which council does not even fall under the jurisdiction of Applicant. The Respondent(s) has no legal right at all to arrange and hold a meeting at the said area which is an area of the Applicant. The Respondent can arrange and hold the meeting in any area falling under the jurisdiction and control of Bakone Royal Council. I therefore respectfully submit that Applicant is entitled to the relief sought.

11.

POTENTIAL INJURY OR HARM

I respectfully submit that having regard to what is set out in this affidavit, it has become clear that Respondent(s) is/are committing an injury by leaving their area and coming to Applicant's area and hold a Heritage day celebration meeting without Applicant's knowledge or approval. This is viewed by Applicant and the villagers as a declaration of war and it has become clear that the villagers are mobilising against this meeting and should this meeting be allowed to proceed as scheduled, this has the potential of brewing violence, hostility, bloodshed and even the loss of life. It is my honest submission that the conduct by the Respondent(s) is clearly unlawful and/or illegal and aimed at bringing unrest to a peaceful area.

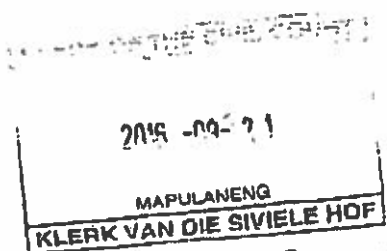
Further to the above, Applicant's rights to possession and control of the area where the meeting is scheduled to take place are violated and effectively nullified by the Respondent(s) who unlawfully are arranging and intend holding a Heritage day meeting without the consent of the Applicant.

12.

CLERK OF THE COURT
2015-09-21
MAPULANENG : F MOF

URGENCY

The Applicant only became aware of the arranged meeting by the Respondent(s) on the 14th day of September 2016. The Applicant has immediately after gaining knowledge of the said meeting arrange a meeting with the Respondent which meeting was scheduled to take place on the 16th of September 2016. When the Respondent(s) refused to attend the said meeting on the 16th of September 2016, members of the Applicant met on the 19th of September 2016 and resolved that legal action must be taken against the Respondent to prevent the potentially violent meeting scheduled to take place on the 24th of September 2016. From the 19th of September 2016 to the 24th of September 2016 there is a space of only four (4) days. Considering the number of days left before the meeting the Applicant cannot in terms of the rules of this court bring an application by notice to the Respondent(s) because by the time the application will be due to be heard in court the meeting would have already taken place and the application will serve no purpose. The Respondent(s) should as expeditiously as possible be prevented from unlawfully invading Applicant's land or area and holding a meeting there without the permission of Applicant thus endangering the lives of innocent people. On the basis of the above, Applicant has no alternative but to bring this application on an urgent basis. I humbly request the above Honourable Court to treat Applicant's application as one of urgency. The granting of the relief sought will also ensure that the Respondent(s) do not continue with their clearly unlawful, aggressive and potentially violent conduct which may lead to bloodshed and the loss of life.

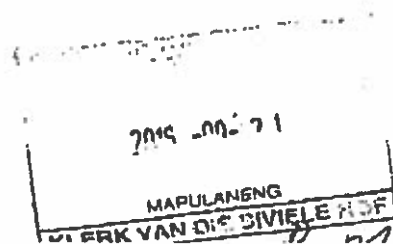


13.

NO OTHER ALTERNATIVE

- 13.1. The Applicant is a traditional council under whose jurisdiction and control Wales fall.
- 13.2 The Applicant has received information that the Respondent(s) has scheduled a meeting to celebrate Heritage day at Wales and will also be hosting a foreign traditional council on the **24th of September 2016**.
- 13.3 The villagers at Wales are angered by Respondent(s) aggression and are mobilising against the scheduled meeting.
- 13.4 The Applicant has arranged a meeting with the Respondent to warn him against proceeding with the meeting without their permission but the Respondent(s) has refused to attend the meeting.
- 13.5 The Applicant has further approached SAPS Acornhoek for assistance but the said SAPS cannot assist if there is no court order.
- 13.6. The Applicant has no other alternative but to approach the above Honourable Court for relief

WHEREFORE I pray for an order in terms of the Notice to which this affidavit is attached.



Malayana
DEPONENT

I CERTIFY THAT THE DEPONENT HAS ACKNOWLEDGED THAT HE KNOWS AND UNDERSTANDS THE CONTENTS OF THIS AFFIDAVIT WHICH WAS SIGNED AND SWORN BEFORE ME AT Hazyview ON THE 21 DAY OF September 2016

[Signature]
COMMISSIONER OF OATHS

Full Names: *Malibe Non*

Hobby Street

Address: *Hobby Street*

Hazyview

Capacity: *w/o*

SUID-AFRIKAANSE POLISIEDIENS
CSC
21 SEP 2016
Hazyview
SOUTH AFRICAN POLICE SERVICE

TRADITIONAL COUNCIL

**RESOLUTION OF THE EXECUTIVE COMMITTEE OF MOREIPUSO
TRADITIONAL COUNCIL**

DATE: 16 SEPTEMBER 2016

VENUE: MOREIPUSO TRADITIONAL AUTHORITY

We the undersigned, being members of the executive committee of the aforementioned Traditional Council, hereby record that at a meeting held on the above date and at the above named venue a meeting was held whereby we resolved as follows:

1. That **IB CHILOANE ATTORNEYS** be approached and be requested and appointed to take legal action against **SPEAKER MAHLAKE** and interdict him from proceeding and arranging and/or holding a Heritage day celebration meeting with **BAKONE ROYAL COUNCIL** which meeting is scheduled to take place at Wales (Santeng/Dccping) on the **24th of September 2016** starting from 08:00.
2. That we hereby authorise our Chairperson (**RODGERS MALAPANE**) to sign all documents and to do all that is necessary in the litigation of the above matter until it is finalised.

THUS DONE AND DATED AT *Casteel* ON THIS THE *21th* DAY OF SEPTEMBER 2016.

SECRETARY OF MEETING.

MAPULANENG
VAN DIE SIVIELE HOF

MEMBERS IN ATTENDANCE

<u>NAMES & SURNAMES</u>	<u>SIGNATURES</u>
1. Malapane R-O.	<i>Malapane</i>
2. Mokone L-M.	<i>Mokone</i>
3. Chiloane H-S.	<i>Chiloane</i>
4. Ntathi S-S.	<i>Ntathi</i>
5. Malatjie W-K.	<i>Malatjie</i>
6.	
7.	
8.	
9.	
10.	

2015-09-21
MAPULANENG
VAN DIE SIMIELE HOF

MOREIPUSO TRADITIONAL AUTHORITY

Moreipuso Traditional Authority

Eng: L.L. Mashile.
SK. Theko

Cell: 073 298 379
Cell: 072 450 4552

Private Bag X 434
Acornhoek
1360

Physical Address: Casteel towards Wales next to Motlamogale Primary School



Mpumalanga Provincial Government

TO: ACORNHOEK STATION COMMANDER

FROM: MOREIPUSO TRADITIONAL COUNCIL

Sir / Madam

The Moreipuso Traditional Council is urgently request your office to submit this letter on its behalf to Mr. Mahlake speaker to meet Moreipuso Council on the 16/09/2016 at 09:00 in conjunction with the heritage event scheduled for the 24/09/2016.

Your prompt response will be highly appreciated.

Yours Faithfully
Secretary Mashile LL

MOREIPUSO TRADITIONAL COUNCIL
PRIVATE BAG X 434 ACORNHOEK, 1360
2016-09-14
TEL: 013 777 7382
MOREIPUSO TRADITIONAL COUNCIL

2016-09-21
 MAPULANENG
 KLERK VAN DIE SIVIELE DIENST

17/09/2016

HERITAGE DAY CELEBRATION

BARONE ROYAL COUNCIL



"Ba Kōkera Palo"

RBO No. 140 464 NPO

Contact: 073 069 3921

P.O. BOX 721
ACORNBOEK
1360

HERITAGE DAY CELEBRATION

RE LE MEMA GOBA GONA MOLETLONG WA BOHIWA LE SETSO SA GABO RENA.
LETSATSI : 24/09/2016

LEFELO : WALES (SANTENG GOBA DEEPING)

NAKO : 08H00

SENAMELWA KE R25, 00 GO TLOGA CASTEEL, ZOEKNOG, TEMBISA GO FIHLA WALES.

TSE DI TLO DIREGAGO KA LETSATSI LEO KE TSE DI LATELAGO:

- > DINAKA
- > MMINO WA SETSO
- > MORUPELO
- > GO OTLANA (KGATI)

LE KGOPELWA GORE LE APARE MEAPARO YA SETSO E SE GO YA MEKGATLO YA DIPOLOTIKI.

MABAPI LE DIPATELWA: 083 522 7871
KOPANANG LE SEISO GO SELLATHEKENG SE: 076 677 9681 GOBA
GRANA MO : 072 783 7957

DITEFO TSA SENAMELWA DI BE DI FELETSE KA DI 20/09/2016
RE KA THABA GE LE KABA GONA,

DINYAKIŠISO KA BOTLAQ LELE TSA: SPEAKER MAHLA KE cell: No 073 069 3921

Executive Director Mr. M. M. M. M.	Secretary Mr. M. M. M. M.	Additional Members 1. Mr. M. M. M. M. 2. Mr. M. M. M. M. 3. Mr. M. M. M. M.
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2016-09-21
MAPULANENG
KLERK VAN DIE SJ